

KAUA'I PLANNING COMMISSION  
REGULAR MEETING  
July 28, 2015

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair Anderson at 9:09 a.m., at the Lihu'e Civic Center, Mo'ikeha Building, in meeting room 2A-2B. The following Commissioners were present:

Chair Angela Anderson  
Vice Chair Sean Mahoney  
Mr. Louis Abrams  
Ms. Amy Mendonca  
Mr. Wayne Katayama  
Mr. Kimo Keawe

The following staff members were present: Planning Department – Michael Dahilig, Kaaina Hull, Leslie Takasaki, Jody Galinato, Dale Cua, Marisa Valenciano, Kenneth Estes; Deputy County Attorney Jodi Higuchi-Sayegusa, Office of Boards and Commissions – Administrator Jay Furfaro (*left at 10:08 a.m.*), Commission Support Clerk Darcie Agaran

Discussion of the meeting, in effect, ensued:

**CALL TO ORDER**

Chair Anderson called the meeting to order at 9:09 a.m.

**ROLL CALL**

Planning Director Dahilig: You have six (6) members present, Madam Chair.

**APPROVAL OF THE AGENDA**

Mr. Dahilig: Next on the Commission agenda is the approval of the agenda. The Department would like to recommend taking the Subdivision item relating to Committee Reports, the Item K, immediately after Item F relating to Hearings and Public Comment.

Chair Anderson: Do I have a motion to approve the agenda as amended?

Mr. Mahoney: Move to approve, Madam Chair.

Ms. Mendonca: Second.

Chair Anderson: All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0.

### **MINUTES of the meeting(s) of the Planning Commission**

Meeting of June 9, 2015

Meeting of June 23, 2015

Mr. Dahilig: Thank you, Madam Chair. We are now on Item D, Minutes of the Meeting of the Planning Commission. You have two (2) meeting minutes for approval this morning; those for June 9<sup>th</sup>, 2015 and those for June 23<sup>rd</sup>, 2015.

Chair Anderson: Do I have a motion with respect to the meeting minutes?

Ms. Mendonca: So moved.

Mr. Mahoney: Second.

Chair Anderson: Okay, and to clarify, the motion is to approve the meeting minutes of June 9<sup>th</sup> and June 23<sup>rd</sup>, 2015.

Ms. Mendonca: Yes.

Chair Anderson: Okay. All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0. Thank you.

### **RECEIPT OF ITEMS FOR THE RECORD**

Mr. Dahilig: Thank you, Madam Chair. We are now on Item E, Receipt of Items for the Record. We do have a supplemental memorandum that has been circulated to the Commission relating to a number of additional testimonies provided for the agenda items this morning.

We do have the fully executed agreement with Shredco under Item F.1. F.2., we do have a letter from Ms. Roversi relating to her permit, as well as a letter in support. We do have on Item F.2.h., a letter from Roger and Leona Smythe in opposition. Item F.4.a., relating to Gregory Kingsley, we have two (2); a letter in opposition, as well as a petition in opposition. And then we do have additional supplemental information relating to a withdrawal of an application that's up for the Consent Calendar this morning.

Chair Anderson: Do I have a motion to receive items for the record?

Mr. Keawe: So moved.

Ms. Mahoney: Second.

Chair Anderson: Okay. All those in favor? (Unanimous voice vote) Any opposed? (None)  
Motion carries 6:0.

## **HEARINGS AND PUBLIC COMMENT**

### Continued Agency Hearing

Class IV Zoning Permit Z-IV-2015-13, Use Permit U-2015-12, Special Permit SP-2015-3 to operate a resource recovery facility for green waste, construction & bulky materials, on a parcel situated along the mauka side of Kaumuali'i Highway in Kekaha, approx. 0.85 mile inland and 1 mile west of Kekaha Gardens Subdivision, further identified as Tax Map Key (4) 1-2-002: 008, and containing a land area of 12.34 acres = Shredco, LLC.

Mr. Dahilig: Thank you, Madam Chair. We are now on Item F relating to F.1.a., Continued Agency Hearings. This is for Class IV Zoning Permit Z-IV-2015-13, Use Permit U-2015-12, and Special Permit SP-2015-3. This is relating to a resource recovery facility for green waste, construction, bulky materials, on a parcel located on the mauka side of Kaumuali'i Highway in Kekaha, approximately 0.85 miles inland and 1 mile west of Kekaha Gardens Subdivision, further identified as Tax Map Key (4) 1-2-002 parcel 8, and containing an area of 12.34 acres. The applicant is Shredco. Madam Chair, this Director's Report was received back on March 24<sup>th</sup>. There were hearings on this matter and it was continued pending outcome regarding agreement with the Agribusiness Development Corporation.

It would be the recommendation of the Department to open the Continued Agency Hearing at this time. Madam Chair, at this point we do not have anybody signed up to testify on this agenda item.

Chair Anderson: Is there anyone in the public that would like to give testimony on this agenda item?

Mr. Dahilig: Madam Chair, seeing no additional testimony, the Department would recommend closing the Agency Hearing on this particular matter.

Unidentified Speaker: What item is this?

Chair Anderson: This is the Shredco. Continued Agency Hearing.

Do I have a motion from the Commission regarding closing the Agency Hearing at this time?

Mr. Mahoney: Move to close the hearing, Madam Chair.

Mr. Keawe: Second.

Chair Anderson: All those in favor? (Unanimous voice vote) Any opposed? (None) Okay, motion carries 6:0.

New Agency Hearing

Class IV Zoning Permit Z-IV-2015-17, Use Permit U-2015-16 and Variance Permit V-2015-3 for the installation and to deviate from the height requirements for 12 antennas and associated improvements situated atop the Waialeale Wing of the Kaua'i Marriott Resort facility in Nāwiliwili, further identified as 3610 Rice Street, Tax Map Key (4) 3-5-002: 002, and affecting a parcel approx. 32.79 acres in size = Verizon Wireless.

Mr. Dahilig: Thank you, Madam Chair. We are now on New Agency Hearings, Item F.2.a., Class IV Zoning Permit Z-IV-2015-17, Use Permit U-2015-16, and Variance Permit V-2015-3 for the installation and to deviate from the height requirements for twelve (12) antennas and associated improvements situated along the Waialeale Wing of the Kaua'i Marriott facility in Nāwiliwili, further identified as 3610 Rice Street, Tax Map Key (4) 3-5-002 parcel 2, and affecting a parcel approximately 32.79 acres in size. The applicant is Verizon Wireless. The Director's Report was received on 05/26/15 and the hearing was postponed from June 9, 2012 (sic).

Madam Chair, the Department would recommend opening the Agency Hearing at this time, and we do not have any individuals signed up to testify on this matter.

Chair Anderson: Is there anyone in the public that would like to give testimony on this agenda item? Again, this is the Verizon Zoning Permit Z-IV-2015-17 and Use Permit U-2015-16 and Variance Permit V-2015-3.

Mr. Dahilig: Madam Chair, seeing no testifiers, the Department would recommend closing the Agency Hearing at this time.

Chair Anderson: Do I have a motion from the Commission?

Mr. Mahoney: Madam Chair, move to close the hearing.

Chair Anderson: Do I have a second?

Ms. Mendonca: Second.

Chair Anderson: Okay. Any discussion? (None) All those in favor? (Unanimous voice vote) Any opposed? (None) Okay, motion carries 6:0.

Class IV Zoning Permit Z-IV-2015-18, Use Permit U-2015-17 and Variance Permit V-2015-4 to allow installation and height variance for a 70 ft. high stealth monopine tower and associated equipment on a parcel situated in Hanamā'ulu, along the mauka side of Kūhiō Highway and approx. 900 ft. north of the Laukōna Street/Kūhiō Highway intersection, further identified as Tax Map Key (4) 3-8-002: 001, and affecting a 2,500 sq. ft. portion of a larger parcel approx. 1,114.913 acres in size = Verizon Wireless.

Mr. Dahilig: Thank you, Madam Chair. We are now on Item F.2.b., Class IV Zoning Permit Z-IV-2015-18, Use Permit U-2015-17, and Variance Permit V-2015-4 to allow installation and height variance for a 70 foot high stealth monopine tower and associated equipment on a parcel situated in Hanamā‘ulu, along the mauka side of Kūhiō Highway, and approximately 900 feet north of the Laukōna Street/Kūhiō Highway intersection, further identified as Tax Map Key (4) 3-8-002 parcel 1, and affecting a 2,500 square foot portion of a larger parcel approximately 1,114.913 acres in size. The applicant is Verizon Wireless. Director’s Report was received 05/26/15, and the hearing was postponed from 06/09/2015; that should be a 15.

Chair Anderson: Is there anyone in the public that would like to give testimony on this agenda item? Okay, please step forward.

Mr. Dahilig: And Madam Chair, just to state that we do not have any additional people signed up to testify.

Chair Anderson: Okay.

Michaella Mintcheff: Good morning. I just came because...

Chair Anderson: If you could please state your name for the record.

Ms. Mintcheff: Yes. My name is Michaella Mintcheff. I live in Hanamā‘ulu.

Chair Anderson: Thank you.

Ms. Mintcheff: I received a letter informing me of this hearing, so I understand that Verizon Wireless needs to locate an antenna in our neighborhood. I don’t know that I have a testimony, but I had questions. Kalepa Ridge is a wide area. I wasn’t sure why the particular hill that faces the neighborhood was chosen for that, and it doesn’t really explain in the proposal how the decision was made, so I guess I have more questions than I have a statement. It will be very visible from the neighborhood. I don’t have a picture to even know what exactly it will be. I appreciate that they wanted to let the neighborhood know. It’s just that when you look at it, you can’t really tell what it is and what the thinking behind it was.

Chair Anderson: Okay. We, as a Commission, cannot answer questions, but your questions will be...you can reserve time if you would like to address the questions when the Applicant presents their application; if you would like to stay for that period of time. Otherwise, the Commission will be looking to the visibility and those issues for the particular neighborhood.

Ms. Mintcheff: And when is the Applicant supposed to be answering questions?

Chair Anderson: So the way that...typically how the agenda falls is that we go through the public hearing and then we return to the matters for the Applicant to address their application. So it’ll be after the public testimony portion.

Ms. Mintcheff: Okay, thank you.

Chair Anderson: Okay.

Mr. Dahilig: Madam Chair, if I could maybe ask the testifier just to restate her name for the record. I didn't catch it.

Ms. Mintcheff: My name?

Mr. Dahilig: Yes.

Ms. Mintcheff: Michaela Mintcheff. M-I-C-H-A-E-L-L-A.

Mr. Dahilig: Okay.

Ms. Mintcheff: And Mintcheff is M-I-N-T-C-H-E-F-F.

Mr. Dahilig: Okay.

Ms. Mintcheff: Thank you.

Chair Anderson: Thank you. And would you like to reserve time?

Ms. Mintcheff: Yes, but I don't know if I can stay (inaudible).

Chair Anderson: Okay, thank you. Any other testimony?

Eddie Sarita: Good morning, Commissioners. My name is Eddie Sarita. I'm a resident of Hanamā'ulu and I'm president of the Hanamā'ulu Community Association. I'm here today to...on this Item 2, Class IV Zoning Permit for the 70 foot cell phone tower in Hanamā'ulu. According to the description that I received, it says 900 feet north of the Hanamā'ulu, off the Kūhiō and Laukōna junction; that would put it somewhere in the vicinity of the Old Hanamā'ulu Shop. Am I correct?

Mr. Dahilig: We can have the Planner answer that when we take the item up.

Mr. Sarita: Do you have any maps? I'm interested mainly in what the visual plain would be like with the tower in place and what kind of a tree it will resemble. According to the application, it says they would duplicate similar trees in the area. However, I would like you to note that in that area, the old cane haul road runs at the base of Kalepa Hill. And that is my concern, is where exactly will this tower be placed. Will it be placed close to the old shop area? Or will it be placed close to the cane haul road, which runs at the base of Kalepa? As such, I believe it will be highly visible from that intersection; also to anyone driving along Kūhiō Highway heading north. You would readily note the tower standing there; unless it's adequately camouflaged to resemble the Ironwood trees on Kalepa Hill. I know of a cell phone tower in the vicinity of the correctional institution in Wailua. I agree it's not too visible because it's camouflaged like a Norfolk Pine tree, but it's also close enough to the highway that one would not be readily

looking at the tower since you have to pay attention to driving in that area. However, a 70 foot tower up in the Old Hanamā'ulu Shop area is enough of a site distance that a driver would be readily attracted to looking at it, and that is a concern that I'd like to voice; how would it look to one driving north along Kūhiō Highway and looking at the Kalepa Hill. I would also like you to note that we have been attending meetings with the Mayor about the...

Mr. Dahilig: Three (3) minutes, Madam Chair.

Mr. Sarita: Planned roadway access for the new landfill in back of Kalepa Hill. It would pass in that area of the tower, so I'm concerned about how it would work.

Chair Anderson: Thank you, Mr. Sarita. If you could conclude your remarks as your three (3) minutes testimony is concluded.

Mr. Sarita: Okay. Are there any visuals available for the public to view?

Mr. Dahilig: It'll all be presented when the action items are taken up after the hearings.

Mr. Sarita: Alright. Anyway, I hope the Commissioners will take note of these; especially the visual plain.

Chair Anderson: Thank you.

Mr. Sarita: Thank you very much.

Chair Anderson: Is there anyone else in the public that would like to give testimony on this agenda item?

Mr. Dahilig: Madam Chair, in light of the testimony, the Department recommends the Commission keep the Agency Hearing open at this time. And if we can move on to the next agenda item.

Chair Anderson: Okay.

Class IV Zoning Permit Z-IV-2015-34, Use Permit U-2015-33 and Variance Permit V-2015-5 to allow installation and height variance for a 80 feet high stealth monopine tower and associated equipment on a parcel located in Līhu'e, situated immediately adjacent to the Kukui Grove Cinema complex at the intersection of Haleko Road/Pua Loke Street, further identified as 4368 Kukui Grove Street, Tax Map Key (4) 3-3-006: 020 and affecting a 900 sq. ft. portion of a larger parcel approx. 94,370 sq. ft. in size = Verizon Wireless.

Mr. Dahilig: Madam Chair, we are now on Item F.2.c., Class IV Zoning Permit Z-IV-2015-34, Use Permit U-2015-33, and Variance Permit V-2015-5 to allow installation and height variance for an 80 foot high stealth monopine tower and associated equipment on a parcel located in Līhu'e, situated immediately adjacent to Kukui Grove Cinema complex at the intersection of Haleko Road and Pua Loke Street, further identified as 4368 Kukui Grove Street at Tax Map

Key (4) 3-3-006: 020 and affecting a 900 square foot portion of a larger parcel 94,370 square feet in size. Applicant is Verizon Wireless and there was a Director's Report received by the Clerk of the Commission on 07/14/2015.

Madam Chair, I do not have anybody signed up to testify, but we would recommend opening the Agency Hearing at this time.

Chair Anderson: Is there anyone in the public that would like to give testimony on this agenda item?

Mr. Dahilig: Madam Chair, given the lack of testimony, the Department would recommend closing the Agency Hearing on this matter at this time.

Chair Anderson: Do I have a motion to close?

Mr. Mahoney: Move to close the Agency Hearing.

Mr. Abrams: Second.

Chair Anderson: Any discussion? (None) All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0.

Class IV Zoning Permit Z-IV-2015-33 and Use Permit U-2015-32 to operate a car wash facility on a parcel situated mauka of the Kūhiō Highway/Kipuni Place intersection in Waipouli, further identified as Tax Map Key (4) 4-5-004: 003, and containing a total land area of 22,001 sq. ft. = SUDZ Carwash.

Mr. Dahilig: Thank you, Madam Chair. We are now on Item F.2.d., Class IV Zoning Permit Z-IV-2015-33 and Use Permit U-2015-32. This is to operate a car wash facility on a parcel situated mauka of Kūhiō Highway and Kipuni Place intersection in Waipouli, further identified as Tax Map Key (4) 4-5-004 parcel 3, and containing a total land area of 22,001 square feet. The applicant is SUDZ Carwash and the Director's Report was received by the Clerk of the Commission on 07/14/2015.

Madam Chair, I do not have anybody signed up on this particular item. The Department would recommend opening the Agency Hearing at this time.

Chair Anderson: Okay. Is there anyone in the public that would like to give testimony on this agenda item?

Mr. Dahilig: Madam Chair, given the lack of testimony, the Department would recommend closing the Agency Hearing at this time.

Chair Anderson: Do I have a motion to close?

Mr. Keawe: So moved.



Mr. Abrams: Second.

Chair Anderson: Any discussion? (None) All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0.

Class IV Zoning Permit Z-IV-2015-32, Use Permit U-2015-31 and Special Permit SP-2015-11 to allow conversion of an existing guest house into a homestay operation on a parcel located along Waiakalua Road in Kīlauea, approx. ¼-mile south of the Waiakalua Road/Kūhiō Highway intersection and further identified as 4670B Waiakalua Road, Tax Map Key (4) 5-1-005: 038, CPR Unit 3 and containing an area of 2.78 acres of a larger parcel = David W. Breen Trust/Lisa M. Breen Trust.

Mr. Dahilig: Thank you, Madam Chair. We are now on Item F.2.e., Class IV Zoning Permit Z-IV-2015-32, Use Permit U-2015-31, and Special Permit SP-2015-11. This is to allow a conversion of an existing guest house into a homestay operation on a parcel located along Waiakalua Road in Kīlauea, approximately ¼-mile south of the Waiakalua Road/Kūhiō Highway intersection and further identified as 4670 Waiakalua Road, Tax Map Key (4) 5-1-005 parcel 38, CPR Unit 3 and containing an area of 2.78 acres of a larger parcel. Applicants are David W. Breen Trust and Lisa M. Breen Trust. There was a Director's Report received by the Clerk of the Commission on 07/14/2015.

Madam Chair, I do have one (1) testifier on this matter and would recommend opening the Agency Hearing at this time.

Evelyn Dibure.

Unidentified Speaker: Mr. Chairman, she's not here at the present time. She will present her testimony at the time of the application.

Mr. Dahilig: Okay.

Chair Anderson: Okay. Is there anyone else in the public that would like to give testimony on this agenda item?

Mr. Dahilig: Madam Chair, seeing the lack of additional testimony, the Department would recommend closing the Agency Hearing at this time.

Chair Anderson: Do I have a motion to close?

Mr. Mahoney: Move to close the Agency Hearing.

Ms. Mendonca: Second.

Chair Anderson: All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0.

Class IV Zoning Permit Z-IV-2015-35, Use Permit U-2015-34 and Special Permit SP-2015-12 to allow conversion of a portion of an existing residence and guest house into a homestay operation on a parcel located along Wailapa Road in Kīlauea, approx. 1/3-mile makai of the Wailapa Road/Kūhiō Highway intersection, further identified as 4328 C Wailapa Road, Tax Map Key (4) 5-1-05-015, CPR Unit 3, and affecting a 7.6 acre portion of a larger parcel approx. 22.1 acres in size = Bruce & Cynthia Fehring.

Mr. Dahilig: Thank you, Madam Chair. We are on Item F.2.f., Class IV Zoning Permit Z-IV-2015-35, Use Permit U-2015-34 and Special Permit SP-2015-12 to allow conversion of a portion of an existing residence and guest house into a homestay operation on a parcel located along Wailapa Road in Kīlauea, approximately 1/3-mile makai of the Wailapa Road/Kūhiō Highway intersection, further identified as 4328 C Wailapa Road, Tax Map Key (4) 5-1-005 parcel 15, CPR Unit 3, and affecting a 7.6 acre of a larger parcel approximately 22.1 acres in size. The applicant is Bruce and Cynthia Fehring. The Director's Report was received by the Clerk of the Commission on 07/14/2015.

Madam Chair, the Department would recommend opening the Agency Hearing at this time, and we do not have anybody signed up to testify on this item.

Chair Anderson: Is there anyone in the public that would like to give testimony on this agenda item?

Mr. Dahilig: Madam Chair, seeing none, the Department would recommend closing the Agency Hearing at this time.

Chair Anderson: Do I have a motion to close?

Mr. Mahoney: Madam Chair, move to close the Agency Hearing.

Mr. Keawe: Second.

Chair Anderson: All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0.

Class IV Zoning Permit Z-IV-2015-36, Use Permit U-2015-35 and Special Permit SP-2015-13 to allow conversion of an existing guest house into a homestay operation on a parcel located along Kahili Makai Road in Kīlauea, situated at the intersection with Kūhiō Highway, further identified as 4387 Kahili Makai Road, Tax Map Key (4) 5-2-021-010, CPR Unit 3, and affecting a 3.838 acre portion of a larger parcel approx. 19.19 acres in size = Lee Roversi.

Mr. Dahilig: Thank you, Madam Chair. The Department would recommend on the next item, I'm going to call the item F.2.g., Class IV Zoning Permit Z-IV-2015-36, Use Permit U-2015-35 and Special Permit SP-2015-13 to allow a conversion of an existing guest house into a homestay operation on a parcel located along Kahili Makai Road in Kīlauea, situated at the intersection with Kūhiō Highway, further identified as 4387 Kahili Makai Road, Tax Map Key (4) 5-2-021 parcel 10, CPR Unit 3, and affecting a 3.838 acre of a larger parcel approximately 19.19 acres in

size. The applicant is Lee Roversi, Madam Chair. And we do have a Director's Report on the matter; however I would refer the Commission to the supplemental materials under Item F.2.g. Ms. Roversi has submitted a letter requesting that she wishes to defer action indefinitely on these permits, and waiving all time requirements to take action on the permits referenced above.

Given receipt of this letter, Madam Chair, the Department would recommend receiving...we've already received the communication...that the matter be deferred until such time as the Applicant requests a rehearing on the matter.

Chair Anderson: Do I have a motion from the Commission to defer this matter until the Applicant brings it back for hearing?

Mr. Mahoney: Madam Chair, move to defer.

Ms. Mendonca: Second.

Chair Anderson: Okay. Any discussion? (None) All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0.

Class IV Zoning Permit Z-IV-2015-38, Use Permit U-2015-37 to allow conversion of an existing residence into a homestay operation on a parcel located along the southern side of Aka Road in Lāwa'i, situated approx. 500 ft. east of the Hailima Road/Aka Road intersection, further identified as 3922 Aka Road, Tax Map Key (4) 2-6-13: 026, and containing a total area of 8,050 sq. ft. = Patrick & Judy Mahon.

Mr. Dahilig: Thank you, Madam Chair. We are now on Item F.2.h., Class IV Zoning Permit Z-IV-2015-38, Use Permit U-2015-37 to allow conversion of an existing residence into a homestay operation on a parcel located along the southern side of Aka Road in Lāwa'i, situated approximately 500 feet east of Hailima Road and Aka Road intersection, further identified as 3922 Aka Road, Tax Map Key (4) 2-6-13 parcel 26, and containing a total area of 8,050 square feet. Applicant is Patrick and Judy Mahon. We do have a Director's Report received by the Clerk of the Commission on 07/14/15 and a supplemental report that is appended to this particular agenda this morning.

Madam Chair, the Department would recommend opening the Agency Hearing at this time, and we do not have anybody signed up to testify on this particular item.

Chair Anderson: Is there anyone in the public that would like to give testimony on this agenda item? Okay, please step forward and please state your name for the record.

Wesley Yorkman: Aloha, my name is Wesley Yorkman. I'm here to give testimony in opposition of this homestay permit. We'll discuss my testimony later or do I state it now?

Chair Anderson: If you can give your testimony at this time. If you would like, you could reserve it to give testimony also at the time after the Applicant does their presentation, but this would be the time to address the matter.

Mr. Yorkman: My wife wants to give testimony, too, so she can do hers later?

Chair Anderson: She can do it now or later.

Mr. Yorkman: Okay. I just want to say that we weren't given enough time to respond to this application's (sic) letter that we just received on the 27<sup>th</sup> of July. I guess I'm asking for time from the Board, so we, the neighbors, who... I tried to talk to neighbors yesterday in the evening, last night, and a few of them said they didn't receive letters like this. I guess what I want to address is the Applicant states here that...do you have a letter that they sent out to us?

Mr. Dahilig: The letters that are sent out are meant to meet a code requirement relating to notice, so we don't receive those letters; those are done by the Applicant.

Mr. Yorkman: I just want to make a comment on this letter. It says the purpose, the County requires that a Use Permit be granted to operate a homestay operation. Judy and I intend to invite guests into our home for short-term stays. The guests will stay in our home, and no new buildings will be constructed as part of this homestay. Off-street parking is provided in the driveway. We will be providing lodging for one (1) or two (2) adults staying together, and guests will never be in the residence if we are not on island. We plan on allowing guests to stay a minimum of three (3) nights and a maximum of ten (10) nights. We will continue to maintain a neat, clean, well-maintained home, and wish to ensure each of you that at no time will we tolerate unruly, loud, or inconsiderate guests. We will be ensuring that our guests follow simple rules of courtesy, respect for our neighborhood and for the comfort of our neighbors. And we will always be home while guests are in residence to ensure these rules are followed.

Okay, now the people seeking the permit moved into our subdivision...

Mr. Dahilig: Three (3) minutes, Madam Chair.

Mr. Yorkman: Pardon me?

Chair Anderson: The public testimony is limited to three (3) minutes. Please, if you can conclude or shorten your remarks, so that we can have additional time for the public.

Mr. Yorkman: What they are stating in this letter is not true; that's all I have to say about that. So I want to give testimony and state my point why I believe what they're saying is not true because they have been operating an illegal homestay in this subdivision from the time they moved in or right after they moved in. I bought my property in 1971, zoned single-family residence, so I would like to keep it as such. That's all I have to say.

Chair Anderson: Thank you.

Mr. Yorkman: And I want to testify later. Thank you.

Chair Anderson: Is there anyone else in the public that would like to give testimony on this agenda item? If you can please step forward.

Ramon Martinez: Good morning, Commissioners. My name is Ramon Martinez. I live in the neighborhood; one (1) block down from where the Applicant is applying for his permit. I never got a letter, and I probably see them more than the gentleman that just spoke. This is a really quiet, local neighborhood. I've been living there for about twelve (12) years now. I didn't know the people before they moved in. Well, I don't know them now; they don't even say "hello" to me, and we've had our differences actually. What bothers me is that the serenity of the neighborhood, what it used to be like. Just a half a block away from that residence there's another vacation rental, and those people walk around Aka Street and Hailima all the time with their cell phones. You know, talking story to their people on the mainland and stuff, and they disrupt the neighborhood. We have small dogs and the dogs go off, and you're wondering what's going on outside? There they are; the people are walking, talking on their cell phones and stuff. I opposed this permit big time, you know. I don't believe there's any...there's no aloha; there's no smiles, there's no "hi, how are you neighbor?" you know, there's never been any of that with this applicant. So I totally oppose. Thank you.

Chair Anderson: Thank you. Is there anyone else in the public that would like to give testimony on this agenda item? Seeing none.

Mr. Dahilig: Madam Chair, in light of the testimony, the Department would recommend moving on to the next agenda item and keeping this Agency Hearing open.

#### Continued Public Hearing (None)

Mr. Dahilig: Madam Chair, we're on Item F.3., Continued Public Hearing. There is none.

#### New Public Hearing

A-2015-1: Request for State Land Use District Boundary Amendment from Agricultural District to Rural District

ZA-2015-6: Request for County Zoning Amendment from Agriculture District (A) to Residential District (R-1)

Location: Kalāheo, Kaua'i. Located along the western side of Pu'u Road, approx. a quarter (1/4) mile west of the Pu'u Road/Papalina Road intersection and immediately adjacent to property identified as 2205 Pu'u Road, and containing a total area of 3.26 acres. Tax Map Key (4) 2-3-004: 006 = *Gregory R. Kingsley, et al.*

Mr. Dahilig: Item F.4., New Public Hearing. We are on item A-2015-1 and ZA-2015-6. This is a request for State Land Use District Boundary Amendments and County Zoning Amendments from the Ag District to the Rural District and from the Ag District to the Residential-1 District. This is in Kalāheo, situated along the western side of Pu'u Road, approximately 1/4-mile west of the Pu'u Road/Papalina Road intersection, immediately adjacent to the property identified as 2205 Pu'u Road, and containing a total area of 3.26 acres. The applicant is Gregory R. Kingsley. Tax Map Key (4) 2-3-004 parcel 6. There is a Director's Report pertaining to this matter, as well as a petition in opposition. And the testimony received previous as part of the receipt of items for the record.

Madam Chair, I do not have anybody signed up to testify on this particular item, but would recommend opening the public hearing at this time.

Chair Anderson: Is there anyone in the public that would like to give testimony on this agenda item?

If you can please step forward. Excuse me Sir, there's a young woman behind you, she had raised her hand first, so I'll take you second.

Calvin Soares: Good morning. My name is Calvin Soares. I was born and raised on Pu'u Road, and this land that is up for rezoning all belonged to my family. Unfortunately, now it is out of my family, and slowly seeing all of Pu'u Road going through drastic changes at which there has to be some point where this has to be slowed down. Pu'u Road has changed drastically in the lifetime that I have lived there and I hate to see it be overdeveloped like many other places on Kaua'i, unfortunately.

Taxes are real high. I finally got it reprieved this year after so many years of paying really high tax rates. I built an ADU for my son, and never made any money off of it, just strictly for my son. I was penalized by having my taxes raised from \$15 to \$5,000. I couldn't understand the reason to that, but you know, what else can you do? I am against this zoning change in fear that it will affect my taxes again after I finally got a reprieve this year and got my taxes reduced.

I see this as only the beginning. Let this happen and what else is going to happen; I'm just really afraid of this. I could say a lot more, but that's all I have to say. I am really opposed to this, and that's all I need to say. I'd hate to see Pu'u Road change. The local people are now a minority in Kalāheo. Thank you very much.

Chair Anderson: Thank you. Is there any other public testimony? Please step forward.

Jennifer Cole-Connor: Good morning. My name is Jennifer Cole-Connor and I'm not sure, I'm with Kaioli Acoba and Greg Kingsley and Fran Acoba. We are together submitting this application, and communicating with our neighbors in our area. I understand that there is some opposition, and my concern with some of the opposition is the facts that were presented are not, in fact, facts. They were stories or they miscommunicated what we're trying to do here, and in fact, we're not trying to develop this land. We're simply trying to request a homestead for our family. With regards to the opposition letter and the petition, I think that the information presented was wrong and falsified, and I just wanted to make that point clear. We also have letters, unfortunately were not submitted on time to you folks, but we do have them and we do plan to submit them, with that seven (7) day period, in support of what we are trying to accomplish with a homestead; definitely not overdevelop this area by any means because we all love Pu'u Road and have significant history there as well. I just wanted to put that out there to everyone.

Chair Anderson: Thank you. The Applicants, you will have an opportunity to present your petition, so to make that clear. This is the public hearing, so it's open for public testimony. You

can give public testimony, but then you will also be representing yourself in presenting your application as well.

Ms. Cole-Connor: Thank you.

Chair Anderson: Is there any other public testimony for this particular agenda item?

Mr. Dahilig: Madam Chair, because this is the public hearing, no formal action is needed to either continue the hearing or not. It is a quasi-legislative action by the Commission, not a quasi-judicial matter.

All remaining public testimony pursuant to HRS 92 (Sunshine Law)

Mr. Dahilig: We are now on Item F.5., all remaining public testimony pursuant to HRS 92.

I do not have anybody signed up to testify on any other item for the agenda this morning. The Department would recommend making a final call for any additional testimony on any other agenda item.

Chair Anderson: Is there anyone in the public that would like to give testimony on any agenda item that is listed here?

Okay, if you can please step forward. And please state your name for the record.

Wendy Rabeck: Wendy Rabeck. I'm sorry, I just got here, so I missed whatever, but I was here about the cell phone tower.

Chair Anderson: Okay, which cell phone tower are you referring to?

Ms. Rabeck: The one behind the church in the Hanamā'ulu area. Okay. I received a notice as a property owner that there's going to be a tower of about 100 feet. I went to the location where it's supposed to be; I looked carefully at the map and went there. I just feel that...first of all, I own a house that is going to be directly in my...if I'm sitting in the living room, I'll be staring at it. The house is a rental; my tenants will have that issue. I bought the house because of the hill, and it's just a beautiful hill.

The main reason that...well first of all I wanted to ask like why it has to be right there? I mean there's a lot of industrial stuff like right in that whole area. There's the church and people who go to church there aren't staring at the mountain, they're inside a tent and they're listening to the service that they went to. There's a roofing place there, there's an adventure place there; the whole area from Kalepa Village all the way to Laukona Street is basically industrial and commercial, so I don't really understand why that tower has to be right in a place that's actually visually very pleasant and definitely affects about thirty (30) houses on Laukona Street, both sides. If you're going north on Laukona Street and the mountain is on the right, all those houses there, it's literally in their backyard.

One of my main concerns is that Hanamā'ulu as an area on this island is not treated properly. It's the fourth largest residential community on Kaua'i. These aren't poor people. These are people that own houses here and I think they get dumped on really badly; the landfill's going to be there, the rehab center's going to be there, they're putting in a road to the landfill, it's always just put it in Hanamā'ulu. So I'd like to see those homeowners, myself included, be shown a little more respect and I think that a cell phone tower is something that nobody wants to look at in their home, especially when they have a mountain there already. I think that needs to be moved somewhere a little more...I don't mind if it's in the public.

The other thing is it needs to be disguised as a tree. There's one (1) at the prison, probably everybody has seen it, and that is my idea of how a cell phone tower should be constructed; it's disguised as a tree, it's next to some other trees that look like real trees, and it's at a prison. I think that's a really appropriate location for a cell phone tower.

Mr. Dahilig: Three (3) minutes, Madam Chair.

Ms. Rabeck: I'm sorry, is my time up?

Chair Anderson: Yes, your three (3) minutes is up. If you have one (1) concluding remark, you can do so.

Ms. Rabeck: I think that Grove Farm and Verizon, as giant players on this island, should work with the residents; particularly the working homeowners and the most solid citizens of this island.

Chair Anderson: Thank you.

Ms. Rabeck: Thank you.

Chair Anderson: Is there anyone else in the public that would like to give testimony on this agenda item? Seeing none.

## **COMMITTEE REPORTS**

Mr. Dahilig: Thank you, Madam Chair. We are now on Item K, Committee Reports. Subdivision Committee.

Mr. Mahoney: Honorable Chair, members of the Planning Commission, the Subdivision Committee reports the following recommendations for the items listed below. Tentative Subdivision Action, S-2015-17, Kawaihoa Development, TMK: (4) 2-9-001:002 and 003, approved 3:0. (b) Charles Baxter and Jinee Tao, TMK: (4) 2-6-017:025 & 026, approved 3:0. Final Subdivision Action, (a) S-2009-13, Grove Farm Properties, Inc., TMK: (4) 3-3-003:041, approved as recommended 3:0. S-2009-14, Grove Farm Properties, TMK: (4) 3-3-003:041, approved 3:0. S-2012-06, Lindsay Crawford/Kukui'ula Development Company (Hawai'i) LLC, TMK: (4) 2-6-014:026 and 043, 2-6-015:005, approved 3:0. S-2013-20, Kīlauea Ventures, LLC,



TMK: (4) 5-2-005:024, 5-2-023:027 and 028, approved 3:0. That concludes the report from the Subdivision Committee, Madam Chair.

Chair Anderson: Do I have a motion to approve the Subdivision Committee report?

Ms. Mendonca: So moved.

Mr. Abrams: Second.

Chair Anderson: Any discussion?

Mr. Katayama: Just a quick question. On Subdivision S-2009-13, approved as recommended. How does that differ from what was in the submission?

Staff Planner Kenneth Estes: Subdivision S-2009-13 was approved with the following provision and it's noted in the Subdivision Report. It states that "no building permits will be granted on the subdivided lots until requirements from the Department of Public Works as noted in their July 21, 2015 correspondence is fulfilled."

Mr. Katayama: Okay, great. Thank you.

Chair Anderson: Any further discussion? Seeing none. All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0.

## **CONSENT CALENDAR**

Status Reports (None)

Mr. Dahilig: Thank you, Madam Chair. We are now on Item G.1., Status Reports. Actually, this is the Consent Calendar. We have no Status Reports for this morning.

Director's Report(s) for Project(s) Scheduled for Agency Hearing on 8/11/15

Class IV Zoning Permit Z-IV-2015-37, Use Permit U-2015-36 and Special Permit SP-2015-14 to allow conversion of an existing residence into a homestay operation on a parcel located along the eastern side of Menehune Road in Waimea Valley, further identified as 5390 Menehune Road and Tax Map Key 1-5-002:047, and containing a total area of 37,407 sq. ft. = *Giuseppi Gereke-King.*

Class IV Zoning Permit Z-IV-2015-39, Use Permit U-2015-38 to allow conversion of an existing residence into a homestay operation on a parcel located along the mauka side of Nohea Street within the Kakela Makai Subdivision in Kalāheo, situated approx. 450 ft. west of its intersection with Kakela Makai Drive and further identified as 1196 Nohea Street, Tax Map Key 2-3-023:119, and containing a total area of 10,017 sq. ft. = *David & Melinda Murray.*

Class IV Zoning Permit Z-IV-2015-40 and Use Permit U-2015-39 to allow conversion of an existing residence into a homestay operation on a parcel located along the mauka side of Papalina Road within the Kai Ikena Subdivision in Kalāheo, situated approx. 900 ft. north of the Kai Ikena Street/Papalina Road intersection and further identified as 4330 Kai Ikena Street, Tax Map Key 2-3-020:092 and containing a total area of 8,011 sq. ft. = *Margarette Johannes*.  
APPLICATION WITHDRAWN BY APPLICANT.

Mr. Dahilig: We do have three (3) items for scheduled Agency Hearing, acceptance of the Director's Report on 08/11/15. I do wish to note that by accepting the Consent Calendar, you are also accepting the withdrawal of Item G.2.c., relating to Class IV Zoning Permit Z-IV-2015-40 and Use Permit U-2015-39. But these are for three (3) homestay applications.

Chair Anderson: Okay. Do I have a motion with respect to the Consent Calendar?

Mr. Abrams: Move to approve.

Mr. Mahoney: Second.

Chair Anderson: Any discussion? (None) All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0.

### **EXECUTIVE SESSION (NONE)**

Mr. Dahilig: Thank you, Madam Chair. We do not have any Executive Sessions listed under Item H this morning.

### **GENERAL BUSINESS MATTERS**

Clerk of the Commission's Recommendation to Refer an Appeal of the Planning Director's Decision Related to the Application for Non-Conforming Use Certificate TVNCU #4122 Jonathan J. Chun, Esq., representing *Laura Bancroft Living Trust and David Bancroft* TMK No. (4) 5-8-011:010 filed on 4/6/15 to a Hearings Officer (Contested Case No. CC-2015-5); Request for Delegation of Authority to the Clerk of the Commission to Procure and Appoint a Hearings Officer on Behalf of the Commission for the Instant Appeal.

Mr. Dahilig: We are now on General Business Matters. This is on Item I.1. This is the Clerk of the Commission's recommendation to refer an appeal of the Planning Director's decision relating to the application of a Non-Conforming Use Certificate at TVNCU #4122, Jonathan Esq. representing Laura Bancroft Living Trust and David Bancroft, TMK No. (4) 5-8-011:010 filed on 04/06/15 to a Hearings Officer under Contested Case No. CC-2015-5. This is a request to delegation of the authority of the Clerk of the Commission to procure and appoint a Hearings Officer on behalf of the Commission for the instant appeal. There is a memorandum on this matter.

Madam Chair, this is just...we are requesting authority to appoint the Hearings Officer to handle this Contested Case Hearing.

Chair Anderson: So then we would need a motion from the Commission to refer this matter to a Hearings Officer.

Mr. Mahoney: Madam Chair, move to refer the matter to a Hearings Officer.

Mr. Abrams: Second.

Chair Anderson: Any discussion? (None) All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0.

Petition to Appeal the Decision of the Planning by Neill & Fely Sams concerning Additional Dwelling Unit Recertification Application (TMK 446012006) filed on June 22, 2015, Contested Case NO. CC-2015-19.

Mr. Dahilig: Madam Chair, we are now on Item I.2. This is a petition to appeal the decision of the Planning Director by Neill and Fely Sams concerning the additional dwelling unit recertification application under Tax Map Key 446012006 filed on June 22, 2015 under Contested Case CC-2015-19. There's a memorandum again from the Clerk of the Commission requesting authority to appoint the Hearings Officer on behalf of the Planning Commission.

Chair Anderson: Do I have a motion from the Commission regarding referring this matter to a Hearings Officer?

Mr. Keawe: Madam Chair, move to refer this item, Neill and Fely Sams regarding the ADU Unit, to a Hearings Officer.

Mr. Mahoney: Second.

Chair Anderson: Any discussion? (None) All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0.

Appoint Member to Long Range Task Group.

Mr. Dahilig: Thank you, Madam Chair. We are now on Item I.3. This is relating to appointing an additional member to the Long Range Task Group that was created by the Planning Commission a couple years ago. With the terming out of Commissioner Isobe, we need an additional member for the...I'm sorry, terming out of the resignation of Commissioner Isobe.

Chair Anderson: Just looking at the time, I'd like to take a break now, caption break, for ten (10) minutes, and we can return to this agenda item.

The Commission recessed at 9:56 a.m.

Jay Furfaro left the meeting at 10:08 a.m.

The Commission reconvened at 10:15 a.m.

Chair Anderson: I'll call this hearing back to order.

Mr. Dahilig: Madam Chair, we are on Item I.3. This is relating to the Long Range Task Group. Again, as given the resignation of Commissioner Isobe who sat on the task group, and given the fact that we are actually moving through the General Plan now, we would like to have the task group full of Commissioners, and so we placed this item on the agenda to have the Commission have that discussion concerning an additional task group member.

Chair Anderson: Okay, thank you. Given my authority as the Chair to appoint members of the Committee, I've conferred with members of our Commission and believe that Commissioner Abrams would be a helpful addition to this Long Range Planning Task Group. So I would ask if Commissioner Abrams is willing to take on that position for that Committee.

Mr. Abrams: Yes.

Chair Anderson: Okay, thank you.

#### **COMMUNICATION (For Action)**

Letter (6/5/15) from Jonathan Chun, Esq., requesting cancellation of Class IV Zoning Permit Z-IV-2012-5, Use Permit U-2012-5 and Special Permit SP-2012-15, Tax Map Key 4-6-004:048, due to applicants' deciding not to construct and operate a wellness center on above-referenced property.

Mr. Dahilig: Thank you, Madam Chair. We are now on Item J.1. This is letter 06/05/15 from Jonathan Chun, Esq., requesting cancellation of Class IV Zoning Permit Z-IV-2012-5, Use Permit U-2012-5 and Special Permit SP-2012-15 at Tax Map Key 4-6-004 parcel 48. This is due to the applicants' deciding not to construct and operate a wellness center on the above-referenced property.

The appropriate motion, Madam Chair, would be to receive the communication.

Chair Anderson: Do we have a motion from the Commission to receive the communication regarding requested cancellation of Class IV Zoning Permit Z-IV-2012-5 and Use Permit U-2012-5 and Special Permit SP-2012-15?

Mr. Abrams: So moved.

Ms. Mendonca: Second.

Chair Anderson: Any discussion? (None) All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0.

### **UNFINISHED BUSINESS (For Action)**

Mr. Dahilig: Thank you, Madam Chair. We've handled Item K. Item L, we have no Unfinished Business for Action this morning.

### **NEW BUSINESS**

Class IV Zoning Permit Z-IV-2015-13, Use Permit U-2015-12, Special Permit SP-2015-3 to operate a resource recovery facility for green waste, construction & bulk materials, on a parcel situated along the mauka side of Kaumuali'i Highway in Kekaha, approx. 0.85 mile inland and 1 mile west of Kekaha Gardens Subdivision, further identified as Tax Map Key (4) 1-2-002: 008, and containing a land area of 12.34 acres = Shredco, LLC.

Mr. Dahilig: I'd like to return back to the action for Class IV Zoning Permit Z-IV-2015-13, Use Permit U-2015-12, and Special Permit SP-2015-3. Again, this is relating to the Shredco matter. Jody is our Planner and she can update the Commission on the matter since it was continued from March.

Staff Planner Jody Galinato: Good morning Madam Chair, members of the Commission. I've included Supplement No. 4, which was some light testimony that we received in favor of the application from Steve Kai at Syngenta. I also included an unsigned copy of the negotiated right-of-way agreement submitted by the Applicant. It was pending Board acceptance at the time, and yesterday I got the first Supplement No. 5. I got the fully executed agreement between Shredco and the State of Hawai'i Agribusiness Development Corporation, and talked to Myra from the Attorney General's Office and they are in agreement right now, so we can proceed.

Chair Anderson: As we received these items just today, I'd like to give the Commission some time to review; if we could just take a minute to review.

Ms. Galinato: For further clarification, on your Director's Report Supplement No. 2 are the Staff recommendations that was received May 12<sup>th</sup>.

Chair Anderson: Can you give the date on the April recommendations?

Ms. Galinato: The Supplement No. 2 was received May 12<sup>th</sup>.

Chair Anderson: If I can have the Planner, if you could please go over the final recommendations.

Ms. Galinato: Sure. Based on the foregoing, it is hereby recommended that the Class IV Zoning Permit Z-IV-2015-13, Use Permit U-2015-12, and Special Permit SP-2015-3 be approved.

subject to the following conditions. No. 1, the operation of the base yard facility shall be limited to the representation as noted in the petition. Any changes to said structures and/or facility shall be reviewed by the Planning Department to determine whether Planning Commission review and approval is warranted. No. 2, the Applicant shall be responsible for the maintenance of the site in a clean and orderly manner. Solid waste such as incidental rubbish and other waste shall not be permitted to accumulate on-site. Disposal of such material shall be in compliance with all applicable State Department of Health rules and regulations. No. 3, the Applicant shall apply for the proper zoning and Building Permits. A \$500 fee will be assessed for the "After the Fact" permit for the office trailer. Item No. 4, in order to minimize dust emissions to neighboring properties, the Applicant shall continue to water down the stockpile area, as well as dirt roadways leading up to the project site, and possibly constructing dust fences/screens and/or landscaping that are adequate height along the property boundaries. No. 5, the hours of operation shall be limited to weekdays; Monday through Friday, 7:00 a.m. to dusk. If the noise generated by the facility adversely impacts surrounding properties or residents, the Applicant shall be required to revise their operation hours such that the concerns are properly addressed and mitigated. No. 6, the Applicant shall resolve and comply with the applicable standards and requirements set forth by the State Health Department, State Department of Economic Development Office of Planning, and the County Department of Public Works, Fire, and Water. No. 7, the Applicant shall develop and utilize "Best Management Practices" during all phases of development in order to minimize erosion, dust, and sedimentation impacts of the project to abutting properties. No. 8, the Applicant is advised that should any archaeological or historical resources be discovered during ground disturbing and/or construction work, all work in the area of the archaeological/historical finding shall immediately cease and the Applicant shall contact the State Department of Land and Natural Resources – Historic Preservation Division at (808) 692-8015 and the Planning Department at (808) 241-4050. No. 9, the Applicant is advised that additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agencies. Item 10, in the event that the operation of this facility terminates, the Applicant shall restore the project site as it was prior to occupancy of the site. Any site improvements that were constructed shall be immediately removed. Item 11, Applicant shall not initiate use until he has secured written approval from the fee owner of the access easement to effectuate this permit. A copy of that agreement shall be submitted to the Planning Department. That is the last condition; that is the item that was received in your Supplemental No. 5.

Chair Anderson: Is the Applicant here today?

Lorna Nishimitsu: For the record, Lorna Nishimitsu, counsel for Shredco, Inc. LLC, I'm sorry, and its member, Danford Kaeo, is present also.

Chair Anderson: And if you can please advise with respect to your agreement with the latest Supplemental Report and conditions placed on Shredco.

Ms. Nishimitsu: ADC, which is the owner of the land over which the farm road runs that would give Shredco the shortest run to its site, entered into an agreement with Shredco to allow the use of that farm road and also a conditional use of water to do the watering of the roads and to keep the dust down. The various licensees that ADC has, the big licensees, also signed on to the

agreement, so for all intents and purposes, that matter has been put to bed so that Shredco can use or cross the ADC lands to get to its site. With respect to the recommended conditions that were issued back in May of 2015, Shredco has had an opportunity to review that back in May, and was accepting of those conditions.

Chair Anderson: Does the Commission have any questions for the Applicant?

Mr. Katayama: I thought we had extended the hours of access. You know, we said the hours of operation in the conditions were Monday through Friday. I thought we, at one time, addressed the Saturday and Sunday access or ability to use the property as well.

Ms. Nishimitsu: Mr. Kaeo recalls that there was an apparent consensus on the part of the Commission. It was two (2) months ago that there could be weekend operations based on what was driving the need to process or breakdown the trash to get it back to the landfill. Because his operations are, like I said, driven by what the County's needs are at the Kekaha landfill, so if the Commission would allow that flexibility, it would allow him to perform his services in a better manner.

Mr. Katayama: I thought we had agreed upon some language to address that.

Ms. Nishimitsu: Nothing was written. I don't recall working with Jody to rewrite the condition.

Mr. Katayama: So is the expansion of the hours or some flexibility hours of operation necessary or can we stay with the conditions as presented?

Danford Kaeo: At this time, we're looking at weekend operation just for repair and maintenance, but if the services increase due to the workload, then if we can get that in the stipulation that would be okay.

Mr. Katayama: I guess, Jody, how does that work with Condition No. 5?

Ms. Galinato: We could amend Condition No. 5 for the hours of the operation to be seven (7) days a week; 7:00 a.m. to dusk. If that's acceptable.

Mr. Katayama: Is that?

Ms. Nishimitsu: That would be acceptable, and I just confirmed with Mr. Kaeo that the seed companies run seven (7) days a week, so it wouldn't necessarily impact the immediate neighbors of the property.

Mr. Katayama: Okay. Thank you.

Chair Anderson: Other questions?

Mr. Keawe: Lorna, if I read correctly, the Non-Exclusive Right-Of-Entry Agreement is valid as long as the Applicant has valid permits?

Ms. Nishimitsu: That is correct.

Chair Anderson: Any other questions from the Commission?

I have a question; particularly regarding the type of materials that are produced and their ultimate location where they will end up. It is my understanding that the large rubbish, such as mattresses and other things that will be grinded, will be taken to the landfill. Is that correct?

Mr. Kaeo: Correct. They will be returned back to the landfill after reduction in size.

Chair Anderson: And in terms of the green waste?

Mr. Kaeo: The green waste is currently being used, and compost is for sale and given to the public. A percentage is given to the public at Hanapēpē, and the rest of the product is for sale for alternate use of commercial fertilizers.

Chair Anderson: Are there particular lands that that compost is used? Or is it throughout Kaua'i?

Mr. Kaeo: My surrounding neighbors; the corn companies.

Chair Anderson: Okay. And the green waste, is that from Syngenta and other farms?

Mr. Kaeo: Some of the surrounding farms are our customers and we do service them. And yes, their products are put into our compost, but a majority of that comes from the Hanapēpē and Kekaha County Facilities.

Chair Anderson: Is there any separation of green waste that may contain GMO products?

Mr. Kaeo: Currently, we are; we keep them separated as a contingency of the corn companies, but other than that, we do not co-mingle both streams.

Chair Anderson: Okay, thank you.

Are there any other questions from the Commission?

Mr. Dahilig: Madam Chair, given the discussion of the Commission, the Department would actually, as part of its report, recommend the oral change to Condition No. 5 to track the language in the Non-Exclusive Agreement No. 3, Page 2, Paragraph 3, so that it matches the hours of operation set forth in the ADC agreement. So it would be, Monday through Friday between 7:00 a.m. to dusk, and Saturdays and Sundays from 7:00 a.m. to 6:00 p.m. And that would be our final recommendation based off of the discussion.

Chair Anderson: Are there any further questions for the Planner or for the Applicant?

Do I have a motion from the Commission?



Mr. Keawe: Yes. I'll move to approve Class IV Zoning Permit Z-IV-2015-13, Use Permit U-2015-12, and Special Permit SP-2015-3 with the provisions...the oral changes that were outlined by the Department.

Mr. Abrams: Second.

Chair Anderson: Discussion?

Any discussion?

Mr. Abrams: No, other than I'm very pleased that it all got worked out.

Chair Anderson: I just have a comment. The matter regarding the GMO materials that are being produced, I think that it would be...it's very important that if there is compost being produced and that those materials, if they are staying on the property that's producing them that's understandable, but if it's being produced and provided to the public, that may be spreading seeds throughout the island and that is an issue of concern. It's my understanding from the testimony that there is a separation, but I still have concerns regarding the ultimate location that the materials are going to end up.

Does the Applicant have any further information? Does it remain on-site on the properties from the biotech companies? Or does that get given to the public as free compost?

Mr. Kaeo: No, that material is primarily used at the seed company on that property because of the GMO that already exists on that land.

Chair Anderson: For that clarification, I think it would be important if we can have an amendment that states the same, so that the materials are separated and are not provided to the public as general compost.

Mr. Keawe: Would that be listed as a separate condition?

Mr. Dahilig: Yes. It would have to be added as an additional condition.

Mr. Keawe: Okay, so I'm willing to amend the motion to add that language with regard to GMO products.

Mr. Dahilig: Just for clarification purposes, you made the motion right?

Mr. Keawe: Right.

Mr. Dahilig: So he's changing his motion which would need an additional second.

Mr. Abrams: I'll withdraw the second if that needs to be...so that we can address the amendment you are going to propose.

Chair Anderson: So it's wordsmithing on the fly, but the gist of the condition, and it's my understanding that the Applicant currently keeps these materials separated, is that compost green waste materials that are generated from biotech companies will be maintained separate from the other green waste materials provided on-site, and that such will not be provided commercially to the public, but may be provided back to the seed companies for their use on properties where GMO plants are currently being farmed.

Mr. Dahilig: I believe our Planner has some language to assist the Commission with this.

Chair Anderson: Okay.

Ms. Galinato: Maybe to simplify it, Condition No. 12 would be "green waste from seed corn companies..." I'm sorry, "green waste materials from seed corn companies to be separated and not provided to the public as general compost". Would that be okay?

Mr. Kaeo: Madam Chair, can I ask a question? What is the primary concern that you have with the GMO green waste product? Is it the seed itself?

Chair Anderson: It would be seeds or other contaminants, if there are different pesticides. Because it's my understanding that it's not necessarily being grown for food, so there may be pesticide residue. And if that's being used for compost or fertilizer for other farms around the island, I think that there's a concern there.

Mr. Kaeo: Okay, because about 99% of the products we receive are the husk that is around the corn and the cobs after they shell them, so there is seed that does come in from the trash, but the composting process sterilizes and breaks down all the possibilities of the germ for it to grow. So it is not used...the seed is basically dead. The rest of the product is broken down to compost, which is practically a dust. So there's not much of a concern if you're looking at it from the seed being spread, but if your concern is pesticides, then we can definitely look at that.

Chair Anderson: Thanks for the clarification.

Ms. Mendonca: I have a question. We're talking about the sale of these composts. Are they to go to your location or are there specific areas where the public can purchase these things? It wasn't clear. I just need clarification.

Mr. Kaeo: Can you repeat the question?

Ms. Mendonca: My question is, the sale of these bi-products, or the compost, are they open to the public at designated areas? Or do they drive up to your location to get them?

Mr. Kaeo: Usually we take orders and we deliver the products to the customers.

Ms. Mendonca: So your delivery, a person has to buy a minimum of ten (10) bags, fifty (50) bags?

Mr. Kaeo: We deliver by the truckloads, not by the bags.

Ms. Mendonca: By the truckloads. So this is more so the ordinary backyard person has no...they can't benefit from it because they certainly are not going to use a whole truckload.

Mr. Kaeo: Those are dropped off at the Hanapēpē Transfer Station for free.

Ms. Mendonca: Oh, they're not bagged?

Mr. Kaeo: Whatever is processed at the facility remains at the Hanapēpē Transfer Station, free for the public to take, but not bagged.

Ms. Mendonca: So they would have to go and haul it?

Mr. Kaeo: They come in with their own trucks and they pick up what they need; their own containers.

Ms. Mendonca: I see. That also applies to those little concrete things that you showed the last time we were here?

Mr. Kaeo: Yes. Well those are going to be for sale from us via the truckloads. If smaller quantities want to be ordered, then we can arrange for the customer to come in and pick up.

Mr. Mendonca: That would be a little bit of a concern, if we're talking traffic. Because once this thing gets popular, how much of the public is going to be driving up there? We were at big discussions about traffic going up and down that road.

Chair Anderson: It's my understanding that the access is limited to the Applicant. Is that the case?

Ms. Nishimitsu: The Applicant, and if it's not its own trucks, whoever hauls from the landfill to the twelve (12) acre parcel.

Mr. Kaeo: That's the condition over the agreed upon with the ADC and the KAA agreement; that is for the use of Mile Marker 28. Our legal right-of-way, which is Kekaha...Old Government Road is our right-of-way. So if there is any concern...primarily our goal is to supply this commercially and we deliver that. We haven't had too much people ask. On small quantities, we usually direct them to the...for our ag products, it's usually at the Hanapēpē Transfer Station. But if it's a concern for the concrete, if my customers with their own vehicles need to access Old Government Road, we can arrange that as well.

Chair Anderson: To bring us back...if there's another question.

Mr. Keawe: I think there is an amended motion on the floor right?

Chair Anderson: Yes. There's an amended motion on the floor. We are working out the language. If I could have the Planner please read the proposed language again for Condition No...is it 12?

Ms. Galinato: Condition No. 12, "green waste materials from seed corn companies are to be separated and not provided to the public as general compost."

Chair Anderson: If we could even make that more general. My suggestion would be "not provided to the public" or "for public consumption."

Mr. Abrams: Consumption or use?

Chair Anderson: Consumption or use, yeah. Well, use.

Mr. Abrams: We're not eating it. (Laughter in background)

Chair Anderson: Well, yeah, there's different uses of consumption.

Ms. Galinato: So would be amended to say "materials are to be separated and not provided to the public." Or "public for use"?

Chair Anderson: If you could read it one (1) more time. It's difficult to take notes.

Ms. Galinato: Sure. "Green waste materials from seed corn companies are to be separated and not provided to the public for use"?

Chair Anderson: "Not provided for use to the public."

Ms. Galinato: "For use to the public."

Mr. Dahilig: Madam Chair, just for clarification on the record, this is a condition that is being added by the Commission, and not being incorporated as a recommendation from the Department. The Department takes no position on this particular condition.

Chair Anderson: We'll need a second for the amended motion.

Mr. Abrams: Second.

Chair Anderson: Any discussion?

Mr. Katayama: I have some comments on this. I think what we need is some basis for this condition, and if it is a residue. You know, we do have comments from the Department of Health and I would think if the Applicant were concerned, he would put that burden on having clean material from the generator of that material. So for us to limit the use at a secondary or tertiary site, I think is sort of excessive caution because we haven't established what the public issue is or the exposure is at this point in my mind clearly. Again, we rely on expert testimonies

on crafting our conditions; whether it be traffic, water, or other sources and this case would be the Department of Health. I think that if this Commission feels that that is an issue of the safety of waste material being generated by a company, we should get an opinion on that prior to making that a condition.

Chair Anderson: Any other discussion?

I concur that it would be...in order to make a decision on approving this that more information would be very helpful. The basis of my proposed condition is based on caution and the lack of information in terms of the...if we're taking material that's produced for research and not to be used for food and allowing that waste product to then go back on land that is used to grow food, that there is a potential issue there. That's my concern and that's why I think it's very important to be able to track that material and know where that material is being used and where it's being placed. Otherwise that information will never be available because there won't be a way to track that. If we had more information, if the Health Department were looking at these things, I would ask...I think that's very important to have. But that's the background of the condition that I proposed, and I agree that having more information prior to putting that condition would help identify what the main concern is, but again, I'm coming out of a precautionary principle.

Mr. Katayama: Well, I guess my concern is that in the abundance of caution, that we are limiting the public's choice. I think that people should be given choices. Now, as the operator, he will be subject to market; whatever the consumer wants. For us, as a legal body, to limit that based on speculative concerns, I think it's a little troublesome. I guess the best way is to let the consumer decide on what he wants to use. My concern about post treatment of green waste is more residual common seeds that will not be impacted by the compost projects. Compost sanitation is probably a bigger concern of mine, rather than the organic material. Again, this is coming from an agricultural basis, as opposed to a health basis. Again, these materials are going to be incorporated in the soil, I presume, and not consumed directly. So even then, you got a...literally a secondary derivative from where the actual food consumption may take place. I mean, if the concern is that there is transfer of these issues going into the plant uptake, I think that's speculative at best.

Chair Anderson: We'll bring it back to the Applicant in terms of if...there's been a motion on the floor, there's been an amended motion, are you objecting or are you in agreement with the proposed condition?

Ms. Nishimitsu: Well, what I would posture before this Commission is that the Department of Health does not prohibit the cultivation of the GMO product, and whatever pesticides or herbicides are in use at the Kekaha fields are the same types of products that are being used probably in my yard by my weed sprayer. All of those things end up at the transfer stations. They are processed, so there's arguably green waste that's already contaminated with pesticides and herbicides that Shredco would be processing; no different than the product he would be processing that he derives from the seed companies. If there's a concern about whether there's harm, I think Commissioner Katayama suggested that the Department of Health would have had some say in this matter, and hasn't opined on that or suggested any conditions relative to those concerns. I'm just concerned that the requirement that Shredco now needs to have, it might get

to the extreme where equipment to process green waste from the seed companies versus green waste from everybody's backyard is going to make it impossible for him to perform and to create a product that is given free to the general public, but which he charges the seed companies back for to put into their soil. That's just what I would like the Commission to consider with this amended condition.

Mr. Dahilig: I guess Madam Chair, if we could just get clarification for record purposes whether that is an objection or if that's a consent to the condition.

Mr. Kaeo: Well before I answer that, I'd like to address something to Madam Chair. Because I do work with the corn companies, there are certain information that I have that is confidential, but I will share this with you. If your concern is with experimental chemicals or whatever you may have seen or the type of GMO that may be tested, those products are flagged from the company and those are buried. Those are items that we do not handle; they are not used, they are not picked up by us at all to be used in the composting operation, so that much information I can share with you. The best thing that I would like, a possible win-win maybe, is that I label those products that were processed from that feedstock. I have no problem with that because the chemicals, from my understanding, what has been shared with me, is normal chemicals that have been approved by DOH. Does that help us get to some common ground?

Chair Anderson: I think the labeling definitely helps address the issue that Commissioner Katayama has brought up regarding consumer choice. It's still an issue in terms of being able to really see what that affect is. I think there's a lot of science that hasn't been done. It's really not a matter for me alone, but as the Commissioner (sic) to make the decision. I don't know if I can really get behind the spread of this particular green waste around the island. That's a huge concern of mine, but that does help the issue in terms of at least the public is aware that if green waste contains GMO product. I would support the labeling, but from a larger stance, I still have concerns about the spread of these products around the island.

Ms. Mendonca: I have a question. Earlier, before this discussion came up, I believe the Applicant stated that everything that he picked up from the corn company is shredded and given back to them, and none of it is sold or given to the community. So I'm beginning to wonder where we are standing in this motion, even if he's not giving it to the public and your initial motion stated that it was not to be sold to the public, it should not be a problem.

Chair Anderson: If the Applicant can clarify.

Mr. Kaeo: I think you're getting confused with the different types of products and processes that will be going on at this site. The bulky items (mattresses, couches, etc.) will be picked up from the landfill, shredded, and then returned to the landfill. There is no selling of any type of product from that, other than possibly removing the steels and the metal from that through the process of the grinding or shredding, and that be sold to the market. As far as the compost operation, like I've stated, the source comes from the general public at Hanapēpē and Kekaha, those products are processed, broken down into compost, a percentage is given back to the public, and the rest is for sale. As far as the waste that comes from the corn companies, those products are separated

and kept in a different site, they are processed, but those piles are definitely the first to go back into the ADC lands where they came from, and not used for the public.

Ms. Mendonca: Well, that's what I said, yeah. I understood that, so I'm saying what Commissioner Anderson's request for the motion, it should not be of any big problem...

Mr. Keawe: Because he's already doing it.

Ms. Mendonca: That's right.

Deputy County Attorney Jodi Higuchi-Sayegusa: I just want to jump in real quickly. As we get further and further down on this discussion on the proposed condition, the amended condition, as with any condition, we need to be mindful of the three (3) overarching factors handed down by the U.S. Supreme Courts you know, the Nollan/Dolan analysis. One (1) big one is there has to be nexus between the condition and the impact to cause by the proposed action. At this point, it doesn't sound like there is much in the record by way of testimonies and even with the Applicant's proposed action that there may be an issue on segregating. As we heard from the Applicant, he already does separate the two (2) streams; the green waste streams for processing and where it's developed. I just want to caution that there has to be a nexus between an impact and the condition that we're seeking to impose. That's something you folks should consider as you go forward with this condition.

Mr. Dahilig: On the lines of what the Attorney is recommending that's why I think it's critical that we have for the record whether or not the Applicant is objecting to the additional condition or not. We have to get that for the record for that purpose.

Mr. Kaeo: No.

Mr. Dahilig: No objections?

Mr. Kaeo: No objections.

Chair Anderson: Okay, so any further discussion? The motion on the floor is to approve with the recommended changes as to the scheduling of the timeframe, as well as Condition 12, which refers to the separation of materials and not to make those particular materials available for public use.

All those in favor? (4 ayes) All those opposed? (1 aye) Okay, having four (4) in favor, one (1) opposed. Okay, we'll go ahead and do a roll call then.

Mr. Dahilig: Madam Chair, the motion on the floor is to approve Class IV Zoning Permit Z-IV-2015-13, Use Permit U-2015-12, and Special Permit SP-2015-3 with the orally amended Director's Report relating to eleven (11) conditions and an additional 12<sup>th</sup> condition added by the Commission.

Commissioner Katayama?

Mr. Katayama: No.

Mr. Dahilig: Commissioner Keawe?

Mr. Keawe: Yes.

Mr. Dahilig: Commissioner Abrams?

Mr. Abrams: Aye.

Mr. Dahilig: Commissioner Mendonca?

Ms. Mendonca: Aye.

Mr. Dahilig: Commissioner Mahoney?

Mr. Mahoney: Aye.

Mr. Dahilig: Commissioner Anderson?

Chair Anderson: Aye.

Mr. Dahilig: Okay. 5:1, Madam Chair.

Chair Anderson: The motion passes 5:1.

Ms. Nishimitsu: Thank you.

Mr. Kaeo: Thank you.

Chair Anderson: Thank you.

Class IV Zoning Permit Z-IV-2015-17, Use Permit U-2015-16 and Variance Permit V-2015-3 for the installation and to deviate from the height requirements for 12 antennas and associated improvements situated atop the Waialeale Wing of the Kaua'i Marriott Resort facility in Nāwiliwili, further identified as 3610 Rice Street, Tax Map Key (4) 3-5-002: 002, and affecting a parcel approx. 32.79 acres in size = *Verizon Wireless*.

Mr. Dahilig: Madam Chair, we are on Item F.2.a. This is Class IV Zoning Permit Z-IV-2015-17, Use Permit U-2015-16, and Variance Permit V-2015-3. This is, again, relating to the cell phone tower in Nāwiliwili. Marisa Valenciano is our...

Ms. Galinato: No, sorry, I'm handling this one. Sorry.

Mr. Dahilig: Okay, sorry.



Ms. Galinato: This application is for a cell phone tower at the Marriott Kaua'i Resort and Beach Club. It requires a Use Permit, Variance, and Class IV Zoning Permit. The primary reason for the proposed facility is to improve wireless phone and data service from Highway 51 to Nāwiliwili and to Nāwiliwili Bay. The coverage will also include the shoreline access road, shopping area, Marriott Resort, and the docking area for cruise ships, as well as Waapa Road to Hulemalu Road. Verizon proposes to place up to six (6) concealed equipment cabinets on the rooftop with antennas installed on the exterior penthouse walls. An emergency generator will be placed at ground level on the west end of the building. Verizon's facilities will have minimal impact, if any at all, on current business operations as Verizon's site encompasses only a very small fraction of the entire parcel and mostly utilizes existing rooftop structure. The Verizon facility is an unmanned facility, except during the construction phase. There should be little, if any, effect on vehicular or personnel traffic, except in cases which require immediate attention. The site is normally visited approximately once a month for approximately one (1) hour for general maintenance. If permitted, the use will allow co-location on the rooftop for other carriers.

The legal requirements have been met by the Applicant.

The subject project is located at the Marriott Kaua'i Resort and Beach Club. The Applicant is proposing to place the antennas on the rooftop of the Waialeale Wing of the Marriott Resort, which is located approximately 550 feet off of Rice Street at Kalapakī Bay.

The surrounding properties are zoned Neighborhood Commercial and Open, and comprised of small shopping centers and a County park. Kalapakī Bay is to the south and the remaining surrounding areas are comprised of the existing resort zoning.

The subject property is located in flood zones AE and VE. However, the proposed development is approximately 128 feet above ground level.

Numerous permits have been issued to the property since originally developed as The Kaua'i Surf Hotel in 1960.

The agency comments are attached.

**Preliminary Evaluation.** A Use Permit may be granted only if the Planning Commission finds that the use meets the following criteria: the use must be a compatible use, the use must not be detrimental to persons or property in the area, the use must not cause substantial environmental consequences, and the use must not be inconsistent with the intent of the CZO and General Plan. Regarding the health and safety considerations, the Commission should note that environmental effects of radio frequency emissions are under the strict jurisdiction of, and must meet the standards of, the FCC, Federal Communications Commission. In the evaluation, No. 1, in evaluating the Applicant's request, the proposed use is compatible and is not detrimental to persons or property in the area, nor does it cause substantial environmental consequences. No. 2, although the use is inconsistent with the CZO in regards to height, it could be considered to be an insignificant factor as the antennas would be screened and not adding any additional floor space in regards to building height. Prior to installation, the Applicant should submit color

scheme/samples to be utilized for the antennas and maintenance equipment to ensure proper screening. In regards to the Variance, special conditions need to be met for the Variance to be granted. In that evaluation, the existing roof height is already 117 feet with the equipment enclosure at 122 feet and the antenna is at 128 feet. Due to the size of the antennas and the fact that the proposed project does not increase any additional floor space, it could be considered to be a minimum departure from the existing structure in regards to the non-conformity. No. 2, in order to effectively meet the objective telecommunication coverage, the proposed 9 foot departure is minimal. In addition to evaluating the proposed project relative to the foregoing criteria, the following aspects were also considered. Regarding the General Plan, it is in conformance with the General Plan. It is in a Special Management Area and the Applicant has submitted a Special Management Area Permit application that will be reviewed after Planning Commission action has been taken. Due to the cost threshold of this project, this could be considered to be a Minor Permit and processed administratively. Regarding the shoreline setback, the Applicant has submitted a Shoreline Setback Determination application that will be reviewed after Planning Commission action has been taken. The Shoreline Setback Determination is also processed administratively. It is uncertain as to if the Applicant is to provide for illumination on this. There is criteria to be met with that that's conditioned.

The agency comments are attached, and I'll hold off for the conclusion and preliminary recommendation.

Chair Anderson: Does the Commission have any questions for the Planner at this time?

Is the Applicant here? If you can approach.

Charles Fortner: Good morning. Charles Fortner for Verizon Wireless. I'm happy to answer any questions.

Chair Anderson: Have you reviewed the Director's Report?

Mr. Fortner: Yes, I have.

Chair Anderson: Do you have any comments or are you in agreeance with the conditions as set forth?

Mr. Fortner: We are in agreeance with the conditions.

Chair Anderson: Are there any questions for the Applicant?

Mr. Katayama: In Condition 5, have you completed the deconfliction? It says that you would resolve any issues related to Kaua'i Police Department's frequency.

Mr. Fortner: We have not consulted with them yet, but we surely will.

Chair Anderson: Any other questions from the Commission?

Mr. Katayama: Timing on this project?

Mr. Fortner: We'll apply for the Building Permit, of course, probably looking at maybe the first or second quarter of next year to start construction.

Mr. Katayama: Okay, thank you.

Chair Anderson: Any other questions?

If the Planner can now read the recommendations.

Ms. Galinato: Sure. Based on the foregoing findings and evaluation, it is hereby concluded that through proper mitigative measures, the proposed use can be considered and it should not have any significant adverse impacts to the environment, nor the surrounding neighborhood. Furthermore, the proposal is generally in compliance with the criteria outlined for granting of a Use Permit, Variance, and Class IV Zoning Permit. Additionally, the need for this use is supported by the Kaua'i General Plan. The Applicant should institute the "Best Management Practices" to ensure the operation of this facility does not generate impacts that may affect the health, safety, and welfare of those living or working in the surrounding area of the proposal. The Applicant shall implement, to the extent possible, sustainable building techniques and operational methods for this project.

Based on the foregoing conclusion, it is recommended that the Class IV Zoning Permit Z-IV-2015-17, Variance V-2015-3, and Use Permit U-2015-16 be approved, subject to the following conditions. Madam Chair, I have ten (10) conditions. Did you want me to read those?

Chair Anderson: It's not necessary.

And as stated before, the Applicant agrees with the conditions as set forth in the report?

Mr. Fortner: Yes.

Chair Anderson: Is the Commission ready to propose a motion?

Mr. Abrams: Madam Chair, I move to approve Staff's recommendation, Class IV Zoning Permit Z-IV-2015-17, Use Permit U-2015-16, and Variance Permit V-2015-3 for the installation to deviate from the height requirements for the twelve (12) antennas; Kaua'i Marriott Hotel.

Chair Anderson: Do I have a second?

Mr. Mahoney: Second.

Chair Anderson: All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0.

Class IV Zoning Permit Z-IV-2015-18, Use Permit U-2015-17 and Variance Permit V-2015-4 to allow installation and height variance for a 70 ft. high stealth monopine tower and associated equipment on a parcel situated in Hanamā‘ulu, along the mauka side of Kūhiō Highway and approx. 900 ft. north of the Laukona Street/Kūhiō Highway intersection, further identified as Tax Map Key (4) 3-8-002: 001, and affecting a 2,500 sq. ft. portion of a larger parcel approx. 1,114.913 acres in size = Verizon Wireless.

Mr. Dahilig: Thank you, Madam Chair. We are now on Item F.2.b. This is Class IV Zoning Permit Z-IV-2015-18, Use Permit U-2015-17, and Variance Permit V-2015-4 to allow the height and variance for a 70 foot high stealth monopine tower. Again, this is the Hanamā‘ulu proposal. Kenny Estes is handling this matter.

And again, just as a reminder to the Commission that action cannot be taken on this particular application until a formal motion from the Commission to close the Agency Hearing that has been left open.

Staff Planner Kenneth Estes: Good Morning, Madam Chair and members of the Commission. I'll read my report for the record. Verizon Wireless proposes to construct and operate a telecommunications facility at the subject site. The proposed facility is comprised of a 75 foot high monopine, twelve (12) antennas mounted near the top of the monopine, and additional equipment, including six (6) concealed equipment cabinets and an emergency generator. The monopine and associated equipment will all be located within a fenced 50 foot by 50 foot leased area.

The Applicant has satisfied all of the legal requirements.

Findings. The property is located within the State Land Use Agricultural District. It is designated Agriculture by the Kaua‘i General Plan, and it is within the County of Kaua‘i Agriculture and Open Zoning Districts. It is currently used for agricultural purposes and cattle grazing. The proposed 2,500 square foot site area is located on a dirt access road approximately 1,100 feet mauka of Kūhiō Highway. It is immediately north of the industrial zoned area in Hanamā‘ulu and it is situated just east of the existing Hanamā‘ulu Homes Residential subdivision, which is approximately 400 feet away. North of the site is land within the County Agriculture Zoning District and is primarily being used for cattle grazing. South of the site is land within the County Limited Industrial District and approximately 600 feet south of the site is a church facility. East of the site is land within the County General Industrial District and is currently being utilized for industrial purposes. West of the site is the Hanamā‘ulu Homes Residential Subdivision.

Preliminary evaluation regarding the Use Permit. Evaluation 1, pursuant to Section 8-7.3 of the Kaua‘i County Code, private and public utilities facilities can be permitted in the Agriculture Zoning District with a Use Permit. (2) Section 205-4.5, the Hawai‘i Revised Statutes generally allows the placement of telecommunication facilities in the State Land Use Agricultural District. (3) Section 8-1.4(e) of the Kaua‘i County Code allows for construction of utility poles and towers by a public utility company to be no higher than 20 feet above the height limits for structures in the applicable Use District. (4) The proposed facility would be consistent with the

Kaua'i General Plan, Section 4.4.6. (5) The use of the monopine should mitigate the visual impact that a standard monopole would have on those frequenting in and around the area. (6) Cellular communications have become a primary communication network upon which the public now relies to contact those agencies most required during times of emergency. (7) The Planning Commission has reviewed and approved several telecommunication facilities and applications. (8) Regarding health and safety considerations, the Commission should note that environmental effects of radio frequency emissions are under the strict jurisdiction of, and must meet the standards of, the Federal Communications Commission.

Evaluation regarding the Variance Permit. (1) Pursuant to Section 8-8.2 of the Kaua'i County Code, structures in the Agricultural Zoning District shall not exceed 50 feet in height. Section 8-1.4 allows for utility poles constructed and operated by a public utility to be erected at a height not to exceed 20 feet above the respective zoning district's height limit. As such, in the Agricultural Zoning District, utility poles constructed and operated by a public utility shall not exceed 70 feet in height. (2) The Applicant is proposing to construct and operate a utility pole 75 feet in height, a 5 foot departure from the Agricultural Zoning District's height limit for utility poles; such departure requires a Variance Permit. (3) Pursuant to Section 8-3.3, Variance Permits shall be granted only if it is determined that because of special circumstances applicable to the property, including topography and surroundings, the strict application of regulations deprives the property of privileges enjoyed by the other properties in the vicinity, and the Applicant shows that he cannot make a reasonable use of property if the regulations are applied. (4) A 5 foot departure is a minimal deviation from the Comprehensive Zoning Ordinance. (5) As represented by the Applicant, the 5 foot deviation is due to the monopine branches exceeding the height limit in order to provide stealth to the antennas. (6) As represented by the Applicant, it is necessary to keep the antennas at a height of 70 feet in order to effectively meet the objective telecommunication coverage. (7) It can be considered that given the varying topography, placing the antennas at a height lower than 70 feet deprives the Applicant from reasonably providing telecommunication services to the surrounding area.

I'll hold off for my conclusion and recommendation.

Mr. Keawe left the meeting at 11:12 a.m.

Chair Anderson: Does the Commission have any questions for the Planner?

I have a question. Have you gone down to the site and visually walked the property to see what...we have photographs in the package, but just curious as to if we have a site visit?

Mr. Estes: Yes, I have been by the industrial site next to...that is approximately 50 feet away from the proposed site. There is a gate that goes into Grove Farm, so I wasn't able to access the actual site area. I could see it from the gate.

Chair Anderson: From your vantage point, what's your opinion in terms of the obstruction that would be created? Or whether there would be any obstructions with the proposed concealment with the monopole?

Mr. Keawe returned to the meeting at 11:15 a.m.

Mr. Estes: From what I saw, there would be nothing.

Chair Anderson: Any other questions for the Planner?

To the Applicant.

Mr. Fortner: Charles Fortner with Cascadia PM, representing Verizon Wireless. If you'd like, I can address the public's questions as well, and also I met with them during the break to describe the exact location for them and to let them know that it would be a stealth monopine.

Chair Anderson: Yes. If you can address those issues on the record that would be great.

Mr. Fortner: Sure. The exact location is along Kūhiō Highway, behind the church, and it is on the cane road or along the cane road. I can't remember the gentleman's name, but he was asking for the exact location. It will be stealth as a Norfolk Pine or pine tree. As I believe, you received some simulation photos that show you what that will look like from the highway and close up as well.

Chair Anderson: Are there any other questions?

Okay. As the Agency Hearing is still open, I'd like to give an opportunity for the public who reserved their opportunity to give testimony at this time. Is there anyone else in the public that would like to give testimony on this matter?

Okay, seeing none. Do I have a motion from the Commission regarding closing the hearing at this time?

Mr. Mahoney: Madam Chair, move to close the Agency Hearing.

Mr. Keawe: Second.

Chair Anderson: Okay. Any discussion? (None) All those in favor? (Unanimous voice vote) Any opposed? Seeing none, motion carries 6:0.

If there are no further questions for the Applicant, will the Planner please read your recommendations?

Mr. Estes: Based on the foregoing findings and evaluation, it is hereby concluded that the proposed use of the subject property for a telecommunications facility may be appropriate, and it may be compatible with other uses on the property. The use should not be detrimental to persons, property, or the environment in the surrounding area. The deviation from the height standard within the Agricultural District is considered a minimum departure and reasonable request for the nature of this facility. The variance should not generate significant probabilities

of harm on the project site or to properties in the surrounding area, nor result in harmful environmental consequences.

Based on the foregoing, it is hereby recommended that Use Permit U-2015-17, Variance Permit V-2015-4, and Class IV Zoning Permit Z-IV-2015-18 be approved, subject to the following conditions noted in the Director's Report.

Chair Anderson: Applicant, do you have any concerns with the Director's Report? Or do you agree with the conditions as set forth?

Mr. Fortner: We agree with everything. The only thing that we have concern about is the Water Department's condition to possibly install additional items on the property. Verizon Wireless will not be using any water as part of their facility, and we'd ask that there not be a condition to install any further water devices on the property.

Chair Anderson: Can you refer to the condition number just for...?

Mr. Fortner: I believe its Condition No. 9.

Chair Anderson: Do we have a response from the Department?

Mr. Dahilig: Madam Chair, I guess under County Code we are obligated to forward the conditions of the agencies relating to Water and Public Works. If you look at the May 26<sup>th</sup> agenda packet, Page 270 of 364 of the PDF, you'll notice that there are conditions related to this particular application from the Department of Water. Now, when you look at the conditions of approval, it does not state a specific action, rather a prospective action, so that's why the Condition No. 9 is stylized as prospective versus definitive. If there are conditions down the line that the...let's say that the Department of Water wishes to add these types of devices or connections within and around Verizon's facility, yes, the way that the condition is written, they would be obligated to meet them, and what you're hearing, I think, at this point is an objection from the Applicant regarding the condition here. As far as the Department's position, the Department would continue to recommend that this condition be incorporated in because at this point, we do not...although the Applicant does represent that no water may be needed on the property, that is something that is certain at this juncture, but in terms of moving forward, should fire protection or those types of things be needed at the facility that they are putting in, that would require a nexus with the Department of Water. So we do not find, at least on our end, at that juncture any reason to strike the condition based off of any kind of constitutional reasons at this point because it's not conditioning anything at this point. If the Applicant does feel that they are being forced to do actions by the Water Department upon Building Permit approval, or subsequent Building Permit approvals that beg beyond a constitutional duty to mitigate the impact, then they can raise those things as a request to the Planning Commission that that condition not be enforced as such. But I think that would be something more prudent to handle at that juncture, should the Water Department propose something that is not reasonable, given the actions of the Applicant.

Chair Anderson: Are there any other questions for the Applicant or the Planner from the Commission?

Ms. Mendonca: I have a question for the Applicant. I'm looking at the picture that shows the church and it's identified in the back where this tower is. If you look at it, on the right-hand side of it, there are some trees and I'm guessing that your selection of this area is because of the accessibility using the old cane haul road?

Mr. Fortner: That would be one (1) of the issues. The other is it's a very large parcel and we try to choose a location that was furthest from the homes and other businesses, but yet still met the RF Engineer's coverage objectives.

Ms. Mendonca: That would give you the height and the needed, I guess, the antenna to transmit.

Mr. Fortner: Correct.

Ms. Mendonca: You mentioned earlier that you spoke with the people who were concerned about the questions they had for the community. I wasn't really clear, was that satisfactory with the people that you spoke to?

Mr. Fortner: It clarified the questions that they had. They did still have concerns about the aesthetics in what it would look like from their own homes.

Ms. Mendonca: I see. Thank you.

Chair Anderson: Does the Commission have any other questions for the Applicant?

Mr. Keawe: Just one (1) quick one. Was there any other alternative locations considered?

Mr. Fortner: Yes. We also considered the Assembly of God church, which I believe is close to that same area, and the Peter Rayno Park was also a consideration. Those were ruled out. Mostly the RF Engineer ruled them out, and I believe the church declined Verizon space to lease on their property.

Ms. Mendonca: Is there any reason why it couldn't be fused into where the greenery is? Or the trees? Since we're asking different locations. I'm just curious because there's that hill and there's a lot of trees nearby, and all of a sudden you see this item stuck out on the left hand side.

Mr. Fortner: Well, I'm not an RF Engineer, but my guess is they want it away from the trees because the signal has to go out. The better that signal can go out, the more homes it can reach, and the better coverage it can provide, the more data capacity that it can provide to the customers.

Ms. Mendonca: Mike, is this part of where all these things are located?



Mr. Dahilig: Yes. So what I passed out just for the Commissioners information, and this is something the Chair has suggested we provide anytime we have a cell phone tower action on a site. This is a GIS layer of all the telecom sites we have currently permitted on the island, or we have knowledge of. At the same time, this layer has not been updated, so the information is three (3) or four (4) years stale. We'll probably have to go back in and readjust the layer, but this gives you a picture of what we have on the floor right now.

Ms. Mendonca: One (1) more question for the Applicant. Excuse me. By doing this tower, you're projecting that your services would improve tremendously because you're having one (1) right in Līhu'e; you're asking for one (1) at Marriott. Now, Hanamā'ulu is not too far away from Marriott, and I would assume in my layman thinking that that tower should be more than sufficient to handle the surrounding area and not touch Hanamā'ulu.

Mr. Fortner: You would think so. What's happened in the most recent years, people are using more data on their telephone and that's driving the need for more sites in the area. Where you have one (1) site here and you have one (1) site here. These cannot handle the data that's required from the customers maybe in this area, so that's why now we're going in and we're putting additional sites in in between towers that may be further apart to provide data capacity; more people searching the internet and getting their email via a wireless device versus on their home Wi-Fi network.

Ms. Mendonca: But you're also asking for one (1) tower in Kukui Grove; that's not too far off from where Līhu'e is.

Mr. Fortner: That's correct.

Ms. Mendonca: So I mean, like I said, we have concerns for the residents in Hanamā'ulu, and you have these two (2) towers that are coming very close. Maybe I'm not akamai about the transmission, but it seems like will it be to the public's advantage, as well as yours, if you took the antenna in Līhu'e and transmitted that as you have two (2); one (1) in the commercial and one (1) on top of Marriott, before going into the Hanamā'ulu area because it seems like it's so close. They are all so closely related in that area. It's just my thinking.

Mr. Fortner: If I may explain a bit further. Verizon looks at this very, very carefully, and they look at where their customers are, where their customers are using that data. The Hanamā'ulu area is an area where there's heavy usage from their customer base, so they see the need to put a tower directly in that neighborhood; and the same for the Marriott area. They see a need, they see a heavy use of data, and so one (1) tower over here cannot handle the same amount of data that this area is asking for. That's why they are asking for additional towers in the community itself.

Chair Anderson: Are there any other questions from the Commission?

With respect to your analysis on locating the tower, did you look into sharing? We have a map here and I'm not aware if there are additional towers that have been permitted in Hanamā'ulu,

but have you looked into using existing towers, perhaps from other companies, to be able to share that space?

Mr. Fortner: Absolutely. That's the first place we like to look because that would be the easiest place to build a new site. I believe there was a site located on top of the hill behind the site that we're looking at now, and it didn't meet the RF objectives. I'll try to explain this as best I can, but if you have a site up here, on top of the hill, it's going to transmit out further. In this case, the RF Engineer was looking for something at 70 feet just to cover that neighborhood. They didn't want to cover a big area, they didn't want to cover all of Līhu'e. They only needed to cover the Hanamā'ulu neighborhood, so they only need that tower at a lower level. They are able to provide better service with the tower in that location versus on top of the hill.

Chair Anderson: So there is a tower that's located on top of the hill?

Mr. Fortner: I believe there's something up by the water tank. It's been a while since I looked at that, but I believe there is something up on top of that hill there. Or if we were to look at putting a new location on top of the hill.

Chair Anderson: Yes.

Mr. Keawe: Real quick. Do you have any idea what the customer base is in Hanamā'ulu? Numbers?

Mr. Fortner: Unfortunately, Verizon doesn't share that information with me. I'm probably too low on the totem pole for that.

Mr. Keawe: I think that would balance some of the concerns with aesthetics with need for your customers.

Mr. Fortner: Sure.

Mr. Abrams: Emergency Services. Are you required or hooked up with so that a member who is utilizing your system can be located calling 911 through a cell?

Mr. Fortner: Yes. I believe Verizon offers E911 services, and I believe there are several emergency folks that use that. The site will also have a generator in the case of a power outage, so the site will be active even during a power outage situation.

Mr. Abrams: Thank you.

Chair Anderson: Any further questions for the Applicant?

Mr. Katayama: One (1) of the challenges with the tower application is that it seems to be very specific to each of the different services. The explanation or rationalization that we're provided is generally location specific that the service that you are looking to provide is best at this spot. If you look at where we've approved the towers to be placed, their proximity in line with

Commissioner Mendonca's question is that you seem to have clustered the various services, towers, in very similar locations over a close proximity to each other. Now the issue of creating data capacity, is that an equipment issue? Or is that a location issue?

Mr. Fortner: It's more of a spectrum issue. The frequencies that the cellular phone companies use are limited, and they can only use so much of the spectrum that they have in an area. If they had unlimited use, unlimited spectrum then it wouldn't be an issue, but because the spectrum is limited from the FCC, they have to reuse these frequencies. A frequency that they may use here, they can use again over here, but they have to use different frequencies in between. So they are limited in that way as to how they can set up each site location.

Mr. Katayama: Have the different companies sort of worked with each other, at least on the site specific and not the competitive issue of customers, but more of the engineering side of it? Just so they can collate more of that equipment. And if it's a frequency issue, that means that each of the different services have different bands that they have purchased, I believe.

Mr. Fortner: Yes, sir.

Mr. Katayama: So, is there an initiative or is there an incentive for the companies to try to reduce the burden on Commissions on granting these Use Permits in these areas where we can once approve an area that you would cluster the antennas?

Mr. Fortner: Like I said, they do try to co-locate as much as possible because these new towers are not cheap to build. If there's a tower in an area that they can use, they will definitely most certainly try to use that tower or co-locate with another provider. The problem like I was saying now is you've got two (2) towers and they are at maximum capacity. You need to put another tower in between to continue to provide good customer service, so more towers are needed in between existing towers.

Mr. Katayama: Would it be practical from a Department's perspective to get letters from other tower owners on the declining service or signing that they're incompatible before we process these applications?

Mr. Dahilig: I think that issue actually has come up previously whenever we handled Variance Permits here at the Commission level regarding whether a landowner or somebody that is leasing a site that has a pole is declining to allow co-location. I think we have difficulty compelling another landowner to say that we are not allowing the co-location. I think it stems from...on the flip side, there was a proposed condition, at one point, forcing an applicant to accept co-location on their tower, too. There are constitutional issues, I think, with us saying that you have to accommodate this commercial service on your property and such. We could ask for it, but whether that becomes a standard of proof for us to verify an applicant's testimony...

Mr. Katayama: Well I think it's a utility issue because you have joint pole agreements between telephone and cable services. I mean, again, I assume that cell phone service is almost a necessity for public use and require service. For the preemption of that service, I don't think is wise for the Commission. However, in terms of zoning and use, to the extent that we can drive

as much of the co-location and reducing the needs for granting Use Permits and encouraging co-location would probably be a wise path. I think the need and the usage would just increase over time; it's not going to decrease.

Mr. Dahilig: I think this is going to be a persistent issue, and one (1) thing to keep in mind also is that when you co-locate, there is also a physical change on the tower; and this was one (1) of the items that was brought up specifically with the tower that is near halfway bridge, that was being discussed. If we propose as a Department that co-location be accommodated, a lot of these towers are actually going to be increasing in higher height than normal, so it becomes an issue of tighter versus taller. If you want to start co-locating these items, if you have an existing pole that is already at 70 feet, but we're expecting co-location as well, then you would have to have the pole be 70 feet, 80 feet, 90 feet to accommodate two (2) or three (3) more. So that's the aesthetic balancing that we're having to deal with here.

Mr. Katayama: I think that should be a choice of the Commission in saying that having two (2) 70 foot poles is better than having one (1) 140 foot pole, or whatever it is. But again at this point, there's no mechanism like telephone poles or poles where you have joint pole usage; where you have electricity, you have telephone, you have cable, all running on the same pole.

Mr. Dahilig: Right.

Mr. Katayama: We're not requiring each utility to provide that pole.

Mr. Dahilig: And again, I think reaching into the previous discussions we had on these things with regarding pole heights, even if we get to that step of accommodating a higher pole height for co-location, we cannot compel by condition a pole-holder to accommodate additional cell phone equipment on their tower by condition. We could theoretically allow for these things to come in and let's say if something's at 70 feet, but the theory is we want more antennas, so we're going to allow it to 110 feet. We still can't compel by condition that a cell phone applicant be compelled to mandatorily accommodate a competitor's equipment. That becomes us impeding commerce issues, so...

Mr. Katayama: No, actually I'm viewing it more as a same structural change that the PUC went through twenty (20) years ago in allowing joint pole agreements where that would be sort of the best in public interest, but if there are needs that can't be accommodated by existing sites that they can address for Use Permit application. At this point, the only pathway forward for these applicants is to apply for site specific permits that we're seeing now. In this case, we're seeing three (3) from Verizon in a 5-mile radius, maybe.

Mr. Dahilig: Right.

Deputy Director Kaaina Hull: If I could also interject, Commissioner Katayama. Sorry, Kaaina Hull, Deputy Director. I've been handling the telecoms for several years now, kind of passing it over to our younger planners; Kenny and Marisa, thankfully. (Laughter in background) But just to give some background too, I think there's always been the concern of Commissioners, and the Department, and members of the public of how do we get these guys to co-locate. Quite frankly,

what the Department has been seeing over the past several years is there's no regulatory need to compel them to co-locate. These guys are co-locating. The vast majority of the poles on island are close to maxed out already. I think what the Applicant is talking about is kind of this explosion of the smartphones and what not, and this need for data for internet service. There's just a higher demand to get these facilities up and out there because there are not many sites where they can still co-locate. I can think of, off the top of my head, three (3) or four (4) poles that haven't maxed out, but the vast majority are maxed out or close to being maxed out. I think even some of our regulatory staff can attest to that. While the Commission doesn't see it, the Department sees it on a weekly basis; these applications for co-location. Because the way the permits have pretty much been set up for the majority of the sites on island is that while the new site requires Commission review and approval, co-location within the existing height limit is done administratively. I think Marisa can attest to the fact that she is bogged down with these co-location requests, which are done administratively, but they are filling up the poles.

Mr. Katayama: Yeah, no, I agree with everything the Department is doing. The issue that I am sort of raising is that moving forward, and I think the Applicant describes it quite well, is that the demand for the usage is only going to increase and it's probably going to be exponential more than anything else because the capacity of the instruments that we have is just mind-boggling, literally. So moving forward, the current mechanisms that we have, that we're using, aren't adequate to handle these requests because what we're literally doing is we're zoning by 100 by 100 foot plots in all kinds of properties. Certainly as we move forward, we need to sort of build a pipeline, if you will, and allow the different services to do that. They're right, it doesn't make sense for each guy to spend, what is it, a half a million dollars building these sites? When you can do one (1) site to have three (3) people for a million maybe, and it provides better service for the consumer because it lowers their cost. So again, this is not literally for today's applicant because I think we're limited to how we handle this, but moving forward, we need to address, like any other issue that is before the Commission in terms of change and capacity, we need to just be smarter about how we do these things.

Mr. Keawe: Real quick. Is there any new technology on the horizon, that you see, that's going to lessen the need for these kinds of facilities? These towers?

Mr. Fortner: I can't say that I'm aware of anything just yet, but the way things are moving you never know.

Mr. Keawe: So with demand, with population increase, there are going to be more requests?

Mr. Fortner: There will be more requests. What we're seeing in the industry now is what's referred to as "small cells". So they're going to a smaller installation, either on the telephone poles or light poles, just a very, very small cell site. It's not a large antenna array or anything like that. It's a very small single antenna, or two (2) or three (3) antennas, very, very small installation.

Mr. Keawe: And still effective?

Mr. Fortner: Yes, absolutely. And they are putting these in neighborhoods, maybe they will put five (5) or six (6) in a neighborhood; rather than one (1) pole that covers a large area. So they have very specific needs.

Mr. Keawe: So that would kind of solve the aesthetic looks of things?

Mr. Fortner: Sure, sure.

Mr. Katayama: Well that's more for urban areas where you have high density, right? Like a city?

Mr. Fortner: Yes, yes. Where you already have a lot of homes in one (1) neighborhood, or it's an area that's difficult to cover with one (1) single tall tower, or possibly a park, something like that.

If I may add one (1) more thing, I've been in wireless services in Hawai'i for twenty (20) years, and I've never seen a tower owner refuse to allow someone else to co-locate on their tower. If somebody is going to pay rent, they usually want to allow someone else on their tower; even among the carriers. They really don't care if their competitor wants to co-locate on the tower because they know that there's going to be another city where they want to co-locate on that carrier's tower.

Chair Anderson: Just in terms of the capacity for this particular tower that you're proposing, will that have capacity for others to co-locate?

Mr. Fortner: Yes it will.

Chair Anderson: Are there any other questions for the Applicant?

Seeing none. How would the Commission like to proceed?

Mr. Abrams: Madam Chair, I'd like to make a motion to approve Staff's recommendation for Class IV Zoning Permit Z-IV-2015-36, Use Permit U-2015-35, and Special Permit SP-2015-13. Wait, wrong one. That's why, I turned the page, excuse me. Okay, strike that. Let's see. Class IV Zoning Permit Z-IV-2015-18, Use Permit U-2015-17 and Variance Permit V-2015-4 to allow an installation and height variance to 70 feet for a monopine tower situated in Hanamā'ulu.

Mr. Mahoney: Second.

Chair Anderson: Any discussion? (None) All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0.

Class IV Zoning Permit Z-IV-2015-34, Use Permit U-2015-33 and Variance Permit V-2015-5 to allow installation and height variance for a 80 feet high stealth monopine tower and associated equipment on a parcel located in Līhu'e, situated immediately adjacent to the Kukui Grove Cinema complex at the intersection of Haleko Road/Pua Loke Street, further identified as

4368 Kukui Grove Street, Tax Map Key (4) 3-3-006: 020 and affecting a 900 sq. ft. portion of a larger parcel approx. 94,370 sq. ft. in size = Verizon Wireless.

Mr. Dahilig: Thank you, Madam Chair. We are now on Item F.2.c., Class IV Zoning Permit Z-IV-2015-34, Use Permit U-2015-33 and Variance Permit V-2015-5. This is the Verizon Wireless tower for Kukui Grove Cinema complex. Mr. Estes is the Planner on this one again.

Maybe if I could suggest, Commissioners, if you would like an abbreviated report from the Department just describing where the tower is and the recommendations.

Mr. Estes: Verizon Wireless proposes to construct and operate a telecommunications facility at the subject site. The proposed facility is comprised of an 85 foot high monopine, twelve (12) antennas mounted near the top of the monopine, and additional equipment including six (6) concealed equipment cabinets and an emergency generator. The monopine and associated equipment will all be located within a 30 foot by 30 foot chain-link fenced area. As represented by the Applicant, this site will improve coverage along corridors of Kukui Grove Shopping Center to the north and east, the corridors of the residential areas along Kaumuali'i Highway, south to the golf course, east near Nuhou Street, and west of Nāwiliwili Road.

The subject property is located within the State Land Use Urban District. It is designated Urban Center by the Kaua'i General Plan, and it is within the County of Kaua'i General Commercial Zoning District. It is currently used for commercial purposes, which is Kukui Grove Cinema. The proposed 900 square foot site area is located on the premises of Kukui Grove Cinema, setback approximately 10 feet from Kukui Grove Cinema building and situated approximately 30 feet off of Haleko Road. North of the site is the County Department of Water facility and a recreational park. Immediately south of the site is an auto sales facility. The properties to the east of the site area within the County General Commercial Zoning District and are mixed use. Approximately 400 feet west of the site is a residential subdivision and a church facility.

I'll hold off for the conclusion and recommendation.

Chair Anderson: Does the Applicant have any questions, comments, or additions for the Commission?

Mr. Fortner: No, we're in acceptance of the Director's Report.

Chair Anderson: Thank you. Any questions from the Commission to the Applicant or the Planner?

Mr. Abrams: Probably both of you. I read the Water Department's report in regards to their concern with the radio frequencies, and their suggestion that they are going to need to approve an intermodulation study to assure that there are no conflicts with their operating system. That's okay and that's not a problem?

Mr. Fortner: Yes.

Mr. Abrams: Or I'm just not clear on how that could be.

Mr. Fortner: Maybe their concern is because the tower is fairly close to theirs and they just want to make sure that there's no interference with that. That's something that's done quite regularly when there is concern like that, and Verizon is happy to perform that study.

Mr. Abrams: Okay, thank you.

Chair Anderson: Are there any other questions for the Applicant?

If we can hear the final recommendations from the Planner.

Mr. Estes: Based on the foregoing findings and evaluation, it is hereby concluded that the proposed use of the subject property for a telecommunications facility may be appropriate and compatible with other uses in the vicinity of the project site. The use should not be detrimental to persons, property, or the environment in the surrounding area. The deviation from the height standard within the General Commercial Zoning District is considered a reasonable request for the nature of this facility. The variance should not generate significant probabilities of harm on the project site or to the properties in the surrounding area, nor result in harmful environmental consequences.

Based on the foregoing, it is hereby recommended that Use Permit U-2015-33, Variance Permit V-2015-5, and Class IV Zoning Permit Z-IV-2015-34 be approved, subject to the following conditions as noted in the Director's Report.

Chair Anderson: To clarify, the Applicant agrees with the conditions as set forth in the Director's Report?

Mr. Fortner: Yes, we do.

Chair Anderson: Thank you. How would the Commission like to proceed?

Mr. Abrams: Madam Chair, I'd like to make a motion to approve Staff's recommendation in regards to Class IV Zoning Permit Z-IV-2015-34, Use Permit U-2015-33, and Variance Permit V-2015-5 to allow installation and height variance for an 80 foot stealth monopine tower; Kukui Grove Center property.

Mr. Keawe: Second.

Chair Anderson: Any discussion? (None) All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0. Thank you.

Mr. Dahilig: Madam Chair, if I could ask for a personal moment in front of the Commission, and make Kenny sit down over there. This is Kenny Estes' last meeting with us. He's moving on to work in the realm of utilities; kind of ironic that he's handling this. We have had him here for about four (4) years, and so he'll be sorely missed. We want to just wish him well as he embarks on a new adventure in his life, so I just want to thank him for his service before the Planning Department and his assistance with the Planning Commission, especially with Subdivisions. I just want to convey that message.



Chair Anderson: Thank you. Thank you, Kenny.

Mr. Estes: Yeah, I would like to say something. I just want to say thank you to everybody and the Commissioners. I want to give a special thanks to Mike, Kaaina, and Dee, the ex-Deputy Director, for all that they have done and their leadership. It was awesome working under them and they are really great guys. I would like to say thank you to the Planning Department Staff. It's been awesome and the camaraderie in the Department is awesome; great work environment. Thank you.

Chair Anderson: Mahalo Kenny.

Given that we are approaching the noon hour, at this time we will break for lunch. The Commission will return for the remaining agenda items at 1:30 p.m.

The Commission recessed for lunch at 11:58 a.m.

The Commission reconvened at 1:45 p.m.

Chair Anderson: I'll call this meeting back to order.

Class IV Zoning Permit Z-IV-2015-33 and Use Permit U-2015-32 to operate a car wash facility on a parcel situated mauka of the Kūhiō Highway/Kipuni Place intersection in Waipouli, further identified as Tax Map Key (4) 4-5-004: 003, and containing a total land area of 22,001 sq. ft. = SUDZ Carwash.

Mr. Dahilig: Madam Chair, we are on Item F.2.d., Class IV Zoning Permit Z-IV-2015-33 and Use Permit U-2015-32. This is to operate a car wash facility on Kūhiō Highway. This is SUDZ Carwash at TMK: (4) 4-5-004 parcel 3, and Jody is our Planner on this one.

Ms. Galinato: Good afternoon Madam Chair, members of the Commission. Just a quick correction on my Director's Report regarding the area, it should be 0.5051.

This request is for Use Permit and a Class IV Zoning Permit. The Applicant is proposing to construct and operate a car wash facility. This will be a one-story, 2390 square foot building that will house a state of the art 100 foot long tunnel car wash to mirror their current location in Līhu'e. The design features will complement the overall existing architectural design of the area. The hours of operation will be Monday to Saturday, 8:00 a.m. to 6:00 p.m. and 10:00 a.m. to 6:00 p.m. on Sundays. The car wash will be closed on most holidays.

For the site information, the existing site is vacant and it has tall mature palm trees. Previously, this site had been a dumping ground for abandoned cars, trucks, and trash. The lot is relatively flat and is located in a flood zone "X", which is located outside of the 500 year floodplain. Regarding the surroundings, the primary businesses in the area include restaurants, gas stations, banks, and churches. All vehicles will access the property from the existing cul-de-sac, Kipuni Place. No ingress/egress will be provided directly onto Kūhiō Highway.

The agency comments are attached, and in Supplement 1, I attached the Fire Department's comments.

For the preliminary evaluation, we took into the considerations for the Use Permit to meet the criteria. The four (4) criteria that it must be a compatible use, the use must not be detrimental to persons or property, the use must not cause substantial environmental consequences, and the use must not be inconsistent with the intent of the CZO. As previously stated, the surrounding uses within the project area include a mixture of restaurants, gas station, bank, and churches. The area is immediately adjacent to areas that are zoned for commercial and industrial uses. Based on the surrounding operations, the proposal should be a compatible use and consistent with the intent and policies of the CZO and General Plan. Furthermore, the car wash facility should not significantly impact neighboring properties provided that mitigative measures are properly addressed. This includes, but is not limited to, design features to mitigate noise and lighting. Furthermore, the Applicant shall be responsible for the maintenance of the site in a clean and orderly fashion. Solid waste such as incidental rubbish, and other waste shall not be permitted to accumulate on the site. Disposal of such material shall be in compliance with all applicable State Department of Health rules and regulations. Regarding the CZO, the building as shown meets the setback, building height, and lot coverage requirements and the Applicant will provide ten (10) parking spaces for customers, vendors, and employees. The proposed plan is in line with the General Plan Vision for Kaua'i 2020. The nature of the operation. This operation will be conducted the same as the existing SUDZ Carwash in Līhu'e. The hours of operations are 8:00 a.m. to 6:00 p.m., Monday through Saturday and 10:00 a.m. to 6:00 p.m. on Sundays. In an effort to conserve resources, reduce energy consumption, and build a healthy work environment for the jobs that will be created, the proposed project is designed to incorporate a number of energy and natural resource savings.

I'll hold off on the conclusions and again, the agency comments are attached.

Chair Anderson: Does the Commission have any questions for the Planner at this time?

Is the Applicant here? If you can approach. Please state your names for the record.

Tim Stuck: I'm Tim Stuck. I'm one (1) of the partners of SUDZ Carwash.

Lloyd Sako: My name is Lloyd Sako. I'm the Architect for the project.

Chair Anderson: Have you had the opportunity to review the Director's Report?

Mr. Stuck: Yes.

Chair Anderson: Do you have any comments? Or do you agree with the recommendations and evaluation as stated?

Mr. Stuck: We agree with the recommendations.

Chair Anderson: Is there anything further that you would like to state before the Commission regarding the proposed project?

Mr. Stuck: No.

Chair Anderson: Does the Commission have any questions for the Applicant?

Mr. Keawe: Madam Chair.

Chair Anderson: Yes.

Mr. Keawe: Can you describe a little bit about the water reclamation system? I know that's a big part of your business and you are cutting it down to twenty (20) gallons per car.

Mr. Stuck: That's correct.

Mr. Keawe: So how are you doing that?

Mr. Stuck: We have a gated reclamation system that's a CMU...its compartmentalized using CMU block. It's a gate system that filters everything out. Basically, all the oil and any sediment rises to the top and it goes into a coalescing pit that we have cleaned out by Aqua Engineers every six (6) weeks. And how we can wash...that's seventeen (17) to twenty (20) gallons of water is based upon seventeen (17) gallons is for a Prius, twenty (20) gallons is for a fifteen (15) passenger van because everything is hooked up on...it's all automated; all of our systems are automated inside. But why we only use...that number is seventeen (17) to twenty (20) gallons of fresh water that we use. So based upon the fresh water going in and sifting through the reclaim tanks, 80% of our use is used with aura water coming through those tanks. That's how we can pinpoint that we use seventeen (17) to twenty (20) gallons of freshwater on each car, but probably sixty (60) to seventy (70) gallons of aura water on each car, which continues to go through the system.

Mr. Keawe: So twenty (20) is freshwater and sixty (60) or seventy (70) is the reclaimed product?

Mr. Stuck: Probably total. It's a variance based upon the length of the car.

Mr. Keawe: There were some concerns submitted by the Water Department with regard to calculations.

Mr. Stuck: That's the same request they gave to us for SUDZ I.

Mr. Keawe: Okay.

Mr. Stuck: And I believe that's just we are going to need a larger water meter, I think.

Mr. Keawe: Obviously with SUDZ I, you have all that information.

Mr. Stuck: Yes, sir. We do.

Chair Anderson: Other questions?

I have a question regarding your immediate neighbors. Have you reached out to them? And have you had input from them with respect to the location of this particular project?

Mr. Stuck: The only contact we've had was in the application process per se, but we have a working relationship on one (1) side with KCFCU. We've done several fundraisers with them. But I haven't pointblank said "hey, how do you feel about us being your neighbor?" The other side, I believe, is Unity Church. The only thing that encroaches to them is their gymnasium that is immediately contiguous to the property. I've watched and I don't see that gymnasium in use much. I think the only thing that may be a burden is our sound goes out into the field and I have an acoustical report on our blowers that stipulate what those are. I don't think we're going to be a burden to anybody.

Chair Anderson: Do you have that acoustical report with you? We're just going to have a copy made, so that the Commissioners can review.

From my understanding, you mentioned Unity Church; I believe it's All Saints Episcopal Church. Is that the church you are referring to?

Mr. Stuck: I'm sorry. You're probably right with that. I'm sorry. I just call it the red church.

Chair Anderson: Okay. And they do have a preschool on the property as well. Are you aware of that?

Mr. Stuck: Is it within the gymnasium?

Chair Anderson: I think they make use of the gymnasium, but the preschool is part of their overall property.

Mr. Stuck: We're less than 150 feet away from a preschool right now at our Lihue location; the KEO.

Chair Anderson: Okay.

Mr. Stuck: I've actually requested them to get a letter to me stating that we are of no intrusion to them at all, and that can be submitted as well if you'd like to see that.

Chair Anderson: So you have not had complaints from KEO Preschool?

Mr. Stuck: No ma'am. Our blowers literally go right to where their nap time is, and there are no problems. I have a letter from our other neighbor, Kia Automotive, stating that there's no intrusion there if you'd like to see that letter as well.

Chair Anderson: If you haven't provided them previously and you have materials, please provide to the Commission.

Does the Commission have any other questions?

Mr. Stuck: Our tunnel is less than 30 feet from their property.

Chair Anderson: If there's no further questions for the Applicant, if the Planner can please read their recommendations.

Ms. Galinato: On the conclusion, based on the information contained in the Staff Report Findings and Evaluation, the Planning Department concludes the following: No. 1, through proper mitigative measures, the proposed operation of a car wash facility should not have any detrimental effect to the environment or persons and property in the area and would be considered a compatible use and is consistent with the criteria outlined for granting a Use Permit pursuant to Chapter 8 of the Kaua'i County Code, as amended. No. 2, the proposed facility as proposed is in compliance with the lot coverage, height, setbacks, and parking requirements as outlined in the CZO. No. 3, the Applicant's proposed plans are in line with the guidance of the General Plan. The Applicant should continue to institute the "Best Management Practices" during the construction and operation of this facility in order to ensure that it does not generate impacts that may affect the health, safety, and welfare of those in the surrounding areas of the proposal.

Based on the foregoing, it is hereby recommended that Class IV Zoning Permit Z-IV-2015-33 and Use Permit U-2015-32 be approved, subject to the following conditions. And I have eleven (11) conditions, Madam Chair.

Chair Anderson: If you can go ahead and read the conditions.

Ms. Galinato: Sure. The operation of the car wash facility shall be limited to the representation as noted in the application. Any changes to said structures and/or facilities shall be reviewed by the Planning Department to determine whether Planning Commission review and approval is warranted. The Applicant shall be responsible for the maintenance of the site in a clean and orderly manner. Solid waste such as incidental rubbish and other waste shall not be permitted to accumulate on site. Disposal of such material shall be in compliance with all applicable State Department of Health rules and regulations. The Applicant shall develop and utilize "Best Management Practices" during all phases of development in order to minimize erosion, dust, and sedimentation impacts of the project to abutting properties. (4) The Applicant shall resolve and comply with the applicable standards and requirements set forth by the State Health Department, and the County Departments of Public Works, Fire, and Water. (5) The Applicant is advised that should any archaeological or historical resources be discovered during ground disturbing and/or construction work, all work in the area of the archaeological/historical findings shall immediately cease and the Applicant shall contact the State Department of Land and Natural Resources – Historic Preservation Division at (808) 692-8015 and the Planning Department at (808) 241-4050. (6) The Applicant is advised that additional government agency conditions may be imposed. It shall be the Applicant's responsibility to enforce (sic) those conditions with the respective agencies. (7) The Planning Commission reserves the right to revise, add, or delete conditions of approval in order to address or mitigate unforeseen impacts the project may create, or to revoke the permits through the proper procedures should conditions of approval not be complied with or be violated. (8) At the time of Building Permit application, an Environmental Impact Assessment fee shall be paid for the new commercial project pursuant to Section 11A of the Kaua'i County Code, based on \$100 per required parking spaces. (9) To the extent possible within the confines

of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kaua'i contractors, as long as they are qualified and reasonably competitive with other contractors, and shall seek to employ residents of Kaua'i in temporary construction and permanent resort-related jobs. It is recognized that the Applicant may have to employ non-Kaua'i residents for particular skilled jobs where no qualified Kaua'i resident possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices. (10) The Applicant shall consider the application of Leadership in Energy and Environmental Design standards and strategies wherever feasible for sustainable site, utilities, and building development. All such proposals shall be reflected on the plans submitted for Building Permit. Lastly, (11) in order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's shearwater and other seabirds, all external lighting shall be only of the following types: shielded lights, cut-off luminaries, or indirect lighting. Spotlights aimed upward or spotlighting of structures, landscaping, or the ocean shall be prohibited.

Chair Anderson: Thank you. Does the Commission have any questions regarding the recommendations from the Planner?

I'd just like to reconfirm that the Applicant, that you're in agreeance with the conditions as set forth.

Mr. Stuck: Yes.

Chair Anderson: I have a question. In regards to the letter written by the State Historic Preservation, they had some requests regarding information or the map of the area, in terms of grading of the area. Have you provided that information to the State?

Mr. Stuck: Yes we have. She was looking for a dig report that was on an archaeological summary that was all the information that we had. We had to go back and trace the actual archaeological study and report, which we have submitted to them. The representative from that agency has requested us to do a couple of things, which we are cooperating with her on that.

Chair Anderson: Okay. Any further questions?

My other question, in your application with respect to landscaping, you said that there are existing palm trees that are going to be maintained. Are you going to be doing any additional landscaping, in terms of blocking from the highway, view plain of the area? As far as what I've...I know it's been noted in the application that it was prior a dumping zone, but from my experience, it's really an open area and provides some open space in Kapa'a Town. I just would like to know if there's proposed landscaping to kind of keep that feel, rather than it being purely a parking lot and car wash.

Mr. Sako: We'll be following the CZO, as far as the hedge to screen the site and also planting the required amount of trees in relationship to the parking.

Chair Anderson: Okay.

Mr. Sako: So that will all be on the plans and instituted.

Chair Anderson: I didn't see the landscaping plan on what was submitted, so do you have a separate landscaping plan?

Mr. Sako: Yes, we have it in the drawings.

Mr. Stuck: Do you want to see the drawings?

Chair Anderson: Yes, if you have those available that would be helpful.

Mr. Sako: It's not in this sheet, but we have one (1). This is not the complete set.

Mr. Keawe: Can you describe from what...you designed it, so can you describe what you were going to put in?

Mr. Sako: The basic concept was to provide a screening hedge. What it will be? We're not quite sure yet. We need to maintain it at 36 or 42 inches. We need to plant so many trees; one (1) tree per six (6) stalls within the property. As far as along the roadway on both sides, we'll be planting some canopy trees. It's nothing designated yet, as far as what's going to be actually planted.

Mr. Keawe: Are you going to be the designer?

Mr. Sako: I'll be working with the landscaper.

Mr. Keawe: Landscape architect?

Mr. Sako: Yes. In concept for the permit, we're just showing what is required by the CZO, and then we'll work on what is actually going to be planted. We'll try to find out what's there at the site right now, around the surrounding areas, and try not to be so different from them; try to integrate everything into what's there now.

Chair Anderson: Any other questions?

How would the Commission like to proceed?

Mr. Mahoney: Madam Chair, I'd like to move to approve Class IV Zoning Permit Z-IV-2015-33 and Use Permit U-2015-32.

Mr. Keawe: Second.

Chair Anderson: Discussion?

I just have a comment. In terms of really being able to determine the compatibility, it would be helpful to have those landscaping drawings and makeups. Part of it is, Kūhiō Highway is Kapa'a's main street and we want to be sure that it does...there is the compatibility in terms of look and

feel. Obviously, a car wash in the area is different than a preschool and a church with a large open frontage of open space. I have concerns about the ripeness of this application because that information hasn't been provided, but I'll hold off and allow the Commission to vote as they may.

Any other comments?

So we'll go ahead. All those in favor? (5 ayes, 1 nay) So we'll have five (5) in favor and one (1) against. Motion passes 5:1 (nay-Anderson). Thank you.

Mr. Stuck: Thank you.

Class IV Zoning Permit Z-IV-2015-32, Use Permit U-2015-31 and Special Permit SP-2015-11 to allow conversion of an existing guest house into a homestay operation on a parcel located along Waiakalua Road in Kīlauea, approx. ¼-mile south of the Waiakalua Road/Kūhiō Highway intersection and further identified as 4670B Waiakalua Road, Tax Map Key (4) 5-1-005: 038, CPR Unit 3 and containing an area of 2.78 acres of a larger parcel = David W. Breen Trust/Lisa M. Breen Trust.

Mr. Dahilig: Madam Chair, we are on Item F.2.e., Class IV Zoning Permit Z-IV-2015-32, Use Permit U-2015-31, and Special Permit SP-2015-11. This is, again, a homestay in Kīlauea at Waiakalua. The applicants are David W. Breen Trust and Lisa M. Breen Trust. Marisa Valenciano is our Planner on this matter.

Staff Planner Marisa Valenciano: Good afternoon Madam Chair, members of the Commission. I'm going to go ahead and read through some of my Director's Report.

A Special Permit is required for a use in the State Land Use Agricultural District that is not a permissible use as set forth in Chapter 205 of the H.R.S. In addition, this application also requires a Use Permit and a Class IV Zoning Permit.

Under project description and use, the proposal is to convert an existing residential guest house into a homestay operation. As represented, the Applicant will continue to reside on-site while operating the guest house as a homestay. For transient accommodation purposes, the homestay operation is proposed to utilize solely just the guest house.

Under additional findings, No. 1, the State Land Use District designation for the subject site is "Agricultural." No. 2, the County General Plan designation for the subject site is "Agriculture." The subject site is located within the County Agriculture and Open Zoning District. The subject property is not located within the Visitor Destination Area. The adjacent properties are also located within the Agriculture and Open Zoning Districts, and they are either in the agriculture use, residential use, or a combination of both. Under H.R.S., pursuant to H.R.S. Section 205-2, the Agricultural District shall include activities or uses primarily concerned with the production of agricultural products and the protection of agriculture lands for agricultural production. Under the General Plan, the application is in general conformance. And the agency comments are attached as Exhibit A.



Under the Use Permit evaluation section, a Use Permit may be granted only if the Planning Commission finds that the establishment, maintenance, or operation of the construction, development, activity, or use in particular case is a compatible use and is not detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the community, and will not cause any substantial harmful environmental consequences on the land of the Applicant or on the other lands or waters, and will not be inconsistent with the intent of this Chapter and the General Plan. Just to summarize, there is a homeowner's exemption for the site, and this ensures that the owner is using the primary residential structure as their primary residence and will act in a self-regulating manner. In addition, the Department has not received any complaints against this particular operation. In considering the Use Permit of this application, the Department finds that it will be compatible with the surrounding area.

In terms of the Special Permit evaluation, the proposed use on State Agricultural Lands can be permitted through a Special Permit provided it meets the criteria as an unusual yet reasonable use of the land. To ensure that the homestay operation is in fact accessory to the subject property's farm, the Department has requested documentation demonstrating that the sales of farm products from the subject property's farm exceed those sales generated from the homestay operation. Such documentation would thereby demonstrate that the subject homestay is in fact consistent with Article 8 of the Comprehensive Zoning Ordinance. On May 22, 2015, the Applicant submitted documentation, also under Exhibit B, that demonstrates that the sales of farm products from the subject property's farm exceed those sales generated from the homestay operation. Given the revenue generated by the farm, the homestay is hereby considered accessory to the farm, and this is not contrary to the objectives sought to be accomplished by Chapter 205, H.R.S.

At this point, this concludes my initial presentation of the application. I'll hold off on the recommendation and conclusions until the Applicant and public testimony. Thank you.

Chair Anderson: Does the Commission have any questions for the Planner?

Is the Applicant here? If you can please approach.

Walton Hong: Good afternoon, Madam Chair and members of the Commission. For the record, my name is Walton Hong, representing the applicants David Breen, who's in the audience, along with his wife, Lisa Breen, who is with me here.

First off, I'd like to compliment the Planner and the Director for the very comprehensive Director's Report. I think you've covered all the points. I don't really have anything to add on the points. I'd just like to say, and kind of anecdotally say this, when I got a call from the Breen's if I would help them with this, I did it because I know former Judge Frank Rocha, who's a good friend. In fact, his wife was here earlier to present testimony. We have written letters of support from her and other neighbors. I went there in expectation of seeing perhaps an open field with a few papaya trees and a guest house. When I drove up, I was very, very surprised at what I saw. It was a full-blown, fully operational nursery. It was like a jungle and some of my photographs show that. The guest house, which is used as a homestay, is tucked away in the corner; you can't even see it from

the road. You have to get out to the common element in the CPR and then go down another long driveway, if you would, to get to the guest house. As noted, we have no complaints from anyone about the use. It's been in operation since 2001. The Breen's have been very, very cooperative. As soon as they got the notice of violation, they immediately ceased operation. I think the record will bear this out. We had a meeting with Mr. Laureta, and removed the website; even returned the reservations for those people that had already paid reservations. I think this very easily characterizes what the Breen's are doing. They want to do everything by the letter, by the book, and that's why we're here before you. We fully support the Director's Report with its recommendations and conditions. We have letters of support here. I'd like to just pass them out. Could I?

And with that Madam Chair, I'd like to just say we are available to answer any questions which the Commissioners may have.

Mr. Dahilig: Madam Chair, given the additional testimony submitted, we need these items submitted to be received for the record.

Chair Anderson: Do I have a motion to receive?

Ms. Mendonca: So moved.

Mr. Mahoney: Second.

Chair Anderson: All those in favor? (Unanimous voice vote) Any opposed? (None) Okay, letters are received 6:0.

Does the Commission have any questions for the Planner or the Applicant at this time?

Mr. Abrams: Walton, I'm curious in regards to...I was looking at the site plan...the parking. Where does the guest park for the homestay?

Mr. Hong: Right next to the guest house.

Mr. Abrams: So it drives...

Mr. Hong: If you look at the...

Mr. Abrams: So they drive in where the residence is and then veer off to the side?

Mr. Hong: No, they come off of Waiakalua Road. The first turn off the driveway is to the Breen's main residence. Then you go back on to the common element for the condominium, and just before you hit the end of the property line, there's a long driveway bordering their boundary line.

Lisa Breen: You can look at the site map that we have of our property. I think it shows it here; how they drive along that side edge of our property.

Mr. Abrams: There it is. Okay.

Ms. Breen: And then they park right next to the guest house.

Mr. Abrams: I see. So they come in on the very corner there, where the upper nursery is.

Ms. Breen: Correct.

Mr. Abrams: Okay. Thank you.

Chair Anderson: Any other questions?

If we can have the Planner please read your conclusions and recommendations.

Ms. Valenciano: Based on the foregoing findings and evaluation, it is concluded that through proper mitigative measures and compliance efforts, the proposed development can be considered and it should not have significant adverse impacts to the environment or the surrounding neighborhood. The proposal is generally in compliance with the criteria outlined for the granting of a Use Permit, Class IV Zoning Permit, and Special Permit. The Applicant should institute the "Best Management Practices" to ensure that the operation of this facility does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

Based on the foregoing evaluation and conclusion, it is hereby recommended that the subject request to convert an existing residential guest house into a homestay under Special Permit SP-2015-11, Use Permit U-2015-31, and Class IV Zoning Permit Z-IV-2015-32 be approved with the following conditions. Madam Chair, do you want me to read through my conditions?

Chair Anderson: Yes, if you could read through the conditions.

Ms. Valenciano: Okay. So Condition No.1, the homestay structure shall be operated as represented. Any changes to the operation and/or the respective structures shall be reviewed by the Department to determine whether Planning Commission review and approval is required. No. 2, for transient accommodation purposes, the subject homestay operation shall be limited to the existing guest house. (3) To ensure that the homestay operation remains accessory to the subject property's farm, the sales of farm products from the subject property's farm must exceed those sales generated...it should be "must or shall"...exceed those sales generated from the homestay operation. No. 4, the Applicant shall maintain a homeowner's exemption for the homestay site to ensure that the homestay operation is within the same primary residential structures as that in which the owner resides. No. 5, the Applicant shall be required to be on-site during the times that the use is occurring. In the event that the Applicant is off-island, the homestay use shall not occur. No. 6, to respect the neighboring residential properties and for the safety of visitors, all vehicular parking related to this use and property including maintenance vehicles shall be accommodated on the subject property at all times. On-street parking shall not be permitted at any time. Point B, guests shall be informed that elevated noise activities or amplified music shall not be permitted after 10:00 p.m. These limitations shall be incorporated into the compulsory "Safety for You and Your Neighbors" and "Welcome and Notice" posted within the dwelling, and within any and all

contracts and advertisements for use of the structure from the date of this approval. Copies of these documents shall be provided to the Department. Condition No. 7, one (1) outdoor sign no larger than 1 square foot shall be posted in a visible place on a wall, fence, or post immediately inside or on the front boundary of the property where it is easy to see, for the purpose of providing the current homestay zoning permit number and the 24-hour contact information. No other signs shall be allowed and there shall be no direct illumination of the required sign. The numbers on the sign shall be no smaller than two (2) inches in height. Condition No. 8, in accordance with Section 11A-2.2(a) of the Kaua'i County Code, the Applicant shall submit to the Planning Department Environmental Impact Assessment fees for the project. The E.I.A. fee for the subject proposal is assessed at \$100.00 per the minimum number of parking stalls required by the Comprehensive Zoning Ordinance. The minimum number of off-street parking stalls serving the proposed homestay operation is one (1). Therefore, prior to operation, the Applicant shall submit to the Planning Department an E.I.A. fee of \$100.00. Condition No. 9, the property owner shall re-certify with the Planning Department the subject zoning permits annually on the date of issuance in accordance with the following regulations: (a) each document to re-certify shall include proof that there is currently a valid State of Hawai'i General Excise Tax License and Transient Accommodations Tax License for the homestay operation. Point (b), each document to re-certify shall include proof that the primary residential structures used for the homestay operation is the owner's primary residence, and the respective owner is benefiting under Section 5A-11 of this Code for a homeowner's exemption for the homestay site in the year preceding the date of the renewal. The Applicant is advised that should the subject homestay site no longer qualify for a homeowner's exemption, the Director may determine these permits invalid. (c) Federal and/or State tax documents that demonstrate the sales of agricultural goods from the subject property's farm exceed those sales generated from the subject property's homestay operation. The Applicant is advised that should the sales of the homestay operation exceed the sales of agricultural goods from the subject property's farm, the Director may determine these permits to be invalid. Upon re-certification, the Planning Department may initiate re-inspection of properties for compliance with other provisions of this chapter or other pertinent land use laws, and may withhold approval of a renewal application and issue cease and desist notices to the Applicant until all violations have been resolved. No. 10, in order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater, and other seabirds, all external lighting shall be only of the following types: shielded lights, cut-off luminaries, or indirect lighting. Spotlights aimed upward or spotlighting of structures, landscaping, or the ocean shall be prohibited. Condition No. 11, the Applicant is advised that should any archaeological or historical resources be discovered during ground disturbing /construction work, all work in the area of the archaeological/historical findings shall immediately cease and the Applicant shall contact the State Department of Land and Natural resources - Historic Preservation Division and the Planning Department to determine mitigation measures. No. 12, to the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kaua'i contractors as long as they are qualified and reasonably competitive with other contractors, and shall seek to employ residents of Kaua'i in temporary construction and permanent jobs. It is recognized that the Applicant may have to employ non-Kaua'i residents for particular skilled jobs where no qualified Kaua'i resident possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices. (13) The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the

project, such as Leadership in Energy and Environmental Design standards or other comparable State-approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, solar panels, low-energy fixtures, low energy lighting, and other similar methods and techniques. All such proposals shall be reflected on the plans submitted for Building Permit review. No. 14, the Applicant is advised that prior to construction and/or use, additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agencies. And finally, the Planning Commission reserves the right to add or delete conditions of approval in order to address or mitigate unforeseen impacts this project may create, or revoke the permits through the proper procedures should conditions of approval be violated or adverse impacts be created that cannot be properly addressed. Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for July 28, 2015 whereby the entire record should be considered prior to decision making. The entire record should include, but not be limited to: pending government agency comments, testimony from the general public and interested others, and the Applicant's response to Staff report and recommendations as provided herein.

Chair Anderson: Thank you. Does the Applicant agree with the conditions and recommendations as stated in the Director's Report?

Mr. Hong: Yes, the Applicant does.

Chair Anderson: Any additional questions from the Commission for the Planner?

Mr. Katayama: Just a question. Exhibit Y, the net profit or loss has been redacted. Any reason for that?

Mr. Hong: Just for privacy reasons. I redacted it because I think what you're looking at or interested in is the bottom line.

Mr. Katayama: Say that again.

Mr. Hong: For privacy reasons. These tax forms show the income, and cost and expense for operation on the property. I think the Planning Commission would be interested...or the Planner would be interested more in are the agricultural activities primary or secondary to the homestay operations? These schedules that were submitted show what the bottom line is, as far as their gross and the bottom line, which readily show that the agricultural activities on the property exceed those generated from the homestay.

Mr. Katayama: I think the intent of that is showing that the agricultural operation is not a hobby.

Mr. Hong: Let me answer in this way. I think the Planner can confirm this; I think you made a site visit. It is, believe me, not a hobby. It is a full-blown nursery operation.

Ms. Breen: We've had our farm from scratch since 1981. We have been dedicated to agriculture since 1983. My husband is a farmer. He's in his 60's now, but he can still run circles around a 20-year old. He is a very modest person. He's a palm expert. He is somebody that people look to in our community when it comes time to plant their orchards, decide what they're going to be putting in their fields. We work with the major landscape contractors on this island. I can tell you No Ka Oi was at our farm two (2) days ago with two (2) large trailer trucks loading up their trailers to go take to the other side of the island to do major projects. It's an extensive operation. We have not only a farm, but a nursery and I think you would see, if you looked at it, it's a...he's respected by plant people all over the island and this is what we do. It's our thing, and it's been our thing for almost thirty-five (35) years.

Chair Anderson: Any other questions?

I just would like some clarification. In the agency comments, a comment I believe from the Department of Water, they state that the wastewater system is adequate for the project and notes that it's limited to 200 gallons per day. Can you explain what type of wastewater system you have for the property?

Mr. Hong: There are two (2) septic systems on the property; one (1) for the main residence and a separate one for the guest house.

Chair Anderson: Okay, thank you.

Any other questions?

Ms. Mendonca: What's the occupancy that you plan for the homestay in the guest house?

Ms. Breen: Two (2).

Ms. Mendonca: Two (2)?

Ms. Breen: Yes. One (1) car.

Mr. Katayama: I guess, question for the Director. As these homestay applications come before us, we are using this as a Use Permit, as opposed to a Special Use Permit in which most of the agricultural criteria is based on ancillary use. Isn't that how those things are approved?

Mr. Dahilig: Yeah, we look at the word "accessory" in the context of these applications for homestay usage on agricultural land. The word "accessory" is interpretive, I would say, and that's why we've looked at the income as a means of guiding the Department in its recommendations to the Commission concerning whether there's genuine agriculture going on the property or is this something where you're trying to...

Mr. Katayama: I guess my question is, if you are a residential applicant, a Use Permit is clearly described.

Mr. Dahilig: Right.

Mr. Katayama: If you are an agricultural enterprise, a Special Use Permit is generally the vehicle that you would use.

Mr. Dahilig: Yeah, so the...

Mr. Katayama: In this case, how are we making that determination of whether it's a Use Permit or a Special Use Permit?

Mr. Dahilig: Actually, in this context, both are required, so the Special Permit and the Use Permit are being required. To meet the obligations of our regulatory purview under H.R.S. 205, a Special Permit is being issued and the Use Permit, which is accompanied by a Class IV Zoning Permit, is being required under the CZO. So both State and County zoning regimes are being covered by the bundle of these three (3) permits.

Mr. Katayama: And so the test for ancillary use, as described in their conditions, is that typical for an agricultural enterprise and that would be sort of the bright line that we would use?

Mr. Dahilig: The standards when we're issuing the 205 Permit, the H.R.S. 205 Permit, has us take a look at whether or not the proposal would be contrary to the objectives of the State Land Use Law. So when you look at the litany of uses allowed under the State Ag District, what we're doing in our analysis is trying to say okay, if you're not meeting this list of things, why aren't you? And if so, how do you ascertain that the totality of the property is not being used contrary to the agricultural objectives. The Use Permit standards are a little different in the sense that...as compared to the Special Permit requirements because we're looking outside of the four (4) land use categories here. There is a broader, I would say, latitude under the Special Permit to ascertain whether or not something is being used outside of the State Land Use category, and so what we explained to the applicants is okay, we need to look at what the permitted uses are under the State regime, and understand why you don't fit and why you can't use one (1) of these things, and one (1) of the things that is in there, it talks about accessory usage. "Accessory" is a very broad term. From a standpoint of the call that we made is that we're saying okay, how do you couch a homestay as being accessory to an ag operation? And I think that's the question that we've been trying to...we've been struggling with. The best that our analysis could come to when we get to a recommendation of approval as we are in this particular circumstance is that we feel comfortable in knowing that the emphasis of usage on the property is agriculture and not just a cover for ag and having a major homestay use on the property. As you've heard from the Applicant, it's one (1) guest house, which is equivalent to one (1) bedroom, two (2) individuals, and the income is verified that there's an emphasis, if not a larger emphasis on the ag operation, versus something that is meant for transient accommodation use. But I'll say it's not an exact science here.

Mr. Katayama: Just given the metrics as reported in Schedule F, where you had the income derived from homestay at 40% and income derived from farm operation at 60%. Is that an ancillary use?

Mr. Dahilig: I think that, based on our evaluation, we see that it is. But again, these are discretionary interpretations so whether the threshold for...and again, it's hard to come up with a

standard to verify genuine ag. I think that's something, as a Commission, when we have these discussions, have had periodic struggles with as to what genuine ag really means. So we're cutting it along the income lines. If that's not the case, then it could be also looked at from a standpoint of lot coverage, it could be looked at what is being derived from the opposite way you're talking about with the homestay being a minor part. I mean, what that is is up for interpretation before the Commission, and I think in our circumstance what we've been looking at is a majority, a clear majority of the income being derived from a commercial standpoint from agricultural usage. We certainly understand that there can be disagreement with that analysis because again, there is no hard and fast rule on this one.

Mr. Katayama: Well, I think the conditions as read outlines the environment in which the homestay can be operated, but what is sort of the troublesome portion is that the enforcement of that line, wherever it is, and in this case what we're sending a message is that it needs to be 50% farm income or greater and everything else is considered ancillary use. But to the extent that they have not shown the bottom line in their Schedule F, if that were to drop away in the predominant income stream becomes a homestay, how does the Department ensure that it maintains its ancillary use status?

Mr. Dahilig: Hence the question, are the write-offs coming from the ag side or the write-offs coming from the homestay side? I think it's a legitimate question. Again, I don't think we've cut the pie in that way, but we've been looking at it more from a gross standpoint. But it's certainly worth a discussion, I'd say.

Mr. Katayama: I'm sure that this is not going to be the first, nor the last, applicant that will be asking us to make this decision. Again, I would like to give the Applicant all of the benefit of the doubt, but what you have to also consider is the impact on the ongoing agricultural community where these things evolve more and more to an urban use, rather than an agricultural use.

Mr. Dahilig: I think we are conscious of the slippery slope that is starting to be crafted as a consequence of the large bubble of permits that are coming through here. You know, what is the message we're sending with these things?

Mr. Katayama: I think that was always the case, it's just that we haven't focused on it. Now that you've focused on it, it's just surfacing, but nonetheless, it gives us the opportunity to address it in a sort of meaningful manner moving forward. Okay, thanks Mike. That's helpful.

Chair Anderson: Thank you. Are there any further questions?

Mr. Abrams: Yes. Walton, as we try to craft together how this homestay on ag land is administered by (inaudible), I would like to thank you for your writing in regards to what I didn't quite understand in the beginning in regards to a homestay is an unusual and reasonable use within the Agricultural District, and how that leads you to be able to, in connection with the Special Permits and a Use Permit, allow that to happen. I didn't have that link in the very beginning in regards to that. The issues that Commissioner Katayama bring up, which is revenue and I've got some more to pop on top of that, which is what if we are not in such productive agricultural land that we have



a request to go ahead and have a homestay use with something with that, that may be discussed further, but can you, sort of, bring me along on that thing, so you can...?

Mr. Hong: I can certainly try. If you take into context that under the State Land Use law, first of all, there are the four (4) different districts and one (1) of them is agriculture. Within the Agriculture District on Chapter 205 of the Hawai'i Revised Statutes, there are specific listed allowable agricultural uses. Then they say, however, if there's another use within the Agricultural District that meets the four (4) prong test, I think it was 205-6 Special Permits, then at the discretion of the governing body, you can get a Special Permit for that particular use.

I want to go back in history for a while because...pardon me if I may...when I first became an attorney, I worked for the Attorney General's office in Honolulu, and one (1) of my assignments that kind of got me into this field was assigned as legal counsel to the State Land Use Commission. I remember one (1) situation where there was a...I forget what island it was, Maui or the Big Island, I think it was the Big Island...where there was a grocery store, neighborhood grocery store, in the middle of the Agricultural District. The person wanted to do something with this store, I don't remember all the details, and when I had to go through the Special Permit route that kind of cast in me, what is the purpose of 205-6? If you meet the standards for 205-6 for a Special Permit, then you satisfy the State. Then you come to the County level, and the County level says okay, within the Agricultural District, you are allowed these uses, as well as accessory uses. You can come in for a Use Permit, and they have standards for the Use Permit: it's not detrimental to the surrounding neighbors, doesn't affect the general moral, character, the welfare; I forget all the different words. So when we made this application, we were very cognizant that we had Agricultural District, and we needed to cross that bridge between both the State and the County. That's why we came in for the application, well two (2) things; the Use Permit to satisfy the County requirements as was very well discussed in the Director's report, as well as meeting the State requirement under the Special Permit, and of course the Class IV Zoning Permit follows as a procedural permit for public hearing. I hope I answered your question Commissioner Abrams.

Mr. Abrams: You did. Thank you.

Chair Anderson: Any other questions for the Applicant or the Planner?

As the Planner has read their conclusion and recommendations, does the Commission have a motion?

Mr. Keawe: I move to approve Class IV Zoning Permit Z-IV-2015-32, Use Permit U-2015-31, and Special Permit SP-2015-11 to allow conversion of an existing guest house into a homestay operation with the specified conditions.

Mr. Abrams: Second.

Chair Anderson: Okay. Discussion? Seeing none. All those in favor? (5 ayes) Any opposed? (1 aye) So we have five (5) ayes and one (1) nay, motion's approved 5:1 (nay-Katayama).

Mr. Hong: Thank you very much.

Class IV Zoning Permit Z-VI-2015-35, Use Permit U-2015-34 and Special Permit SP-2015-12 to allow conversion of a portion of an existing residence and guest house into a homestay operation on a parcel located along Wailapa Road in Kīlauea, approx. 1/3-mile makai of the Wailapa Road/Kūhiō Highway intersection, further identified as 4328 C Wailapa Road, Tax Map Key (4) 5-1-005-015, CPR Unit 3, and affecting a 7.6 acre portion of a larger parcel approx. 22.1 acres in size = Bruce & Cynthia Fehring.

Mr. Dahilig: Thank you, Madam Chair. We are now on Class IV Zoning Permit Z-IV-2015-35, Use Permit U-2015-34, and Special Permit SP-2015-12. This is to allow conversion of a portion of an existing residence and a guest house into a homestay operation. This is, again, the Fehring application located along Wailapa Road in Kīlauea. Dale is our Planner on this matter.

Chair Anderson: If we can hear the Planner's report.

Staff Planner Dale Cua: Good afternoon, Madam Chair and members of the Commission. Moving on to the Director's Report, the subject property is in Wailapa. It's within CPR Unit 3 of the Wailapa Road Condominium. As noted, Tax Map Key of the property is 5-1-005 parcel 15. Area of the CPR Unit is approximately 7.6 acres, overall property is 22 acres. Current zoning is Agriculture and Open. State Land Use designation is Agricultural. General Plan designation is Agriculture, and the existing use is Residential and Agriculture.

The action required, pursuant to Section 205 of the Hawai'i Revised Statutes and Chapter 13 of the Rules of Practice and Procedures of the Planning Commission, a Special Permit is required for a use within the State Land Use Agricultural District that is not a permissible use as set forth in Chapter 205 of the H.R.S. Pursuant to Section 8-2.4 of the Kaua'i County Code, the proposed use requires a Use Permit within the Agriculture Zoning District. Pursuant to Section 8-8.4 of the Kaua'i County Code, a Class IV Zoning Permit is a procedural requirement for obtaining a Use Permit within the Agriculture Zoning District.

Project description and use. As represented, the Applicants intend to utilize a bedroom in the existing farm dwelling and the guest house into a homestay operation. As represented, the Applicant will continue to reside on-site while operating it as a homestay. For transient accommodation purposes, the homestay operation is proposed to utilize the guest cottage, as well as a bedroom within the existing dwelling.

The Applicant's reasons and justification is contained in their application.

Just for some additional findings, State Land Use District designation for the project site is "Agricultural." As noted, County General Plan designation for the site is "Agriculture." The project site is located within the County Agriculture Zoning District. The subject property is not located within the Visitor Destination Area. The adjacent properties are also located within the Agriculture and Open zoning districts, and they are either in agricultural use, residential use, and a combination of both, or are vacant. Hawai'i Revised Statutes, pursuant to H.R.S. Section 205-2, the Agricultural District shall include activities or uses primarily concerned with the production of agricultural products and the protection of agriculture lands for agricultural production. General Plan, Section 4.2.8.2 of the Kaua'i General Plan sets forth the following policies concerning

alternative visitor accommodations: §i, County of Kaua'i shall recognize alternative visitor accommodations, such as B&Bs, vacation rentals, inns, cabins, and retreat centers; §ii, County shall enact clear standards and permit processes for regulating alternative visitor accommodation structures and operations in the Residential, Agriculture, Open, and Resort zoning districts; §iii, County development standards and permit processes shall be scaled to the size and potential impact of the use, which includes (1) single-unit B&Bs and vacation rentals should be allowed with development standards and a Use Permit requiring administrative review, and opportunity for public input. (2) Multi-unit B&Bs and vacation rentals, retreat centers, and inns should be regulated through a set of development standards and a permit process regarding public hearing and a decision by the Planning Commission. (3) Development of a retreat center or country inn in an Agriculture District should be linked to an ongoing, active program to conserve agricultural land and operations. And (4) permitting processes should consider the cumulative impact that a large concentration of alternative visitor units can have on a residential neighborhood.

The agency comments are attached as Exhibit A in the Director's Report. At this point, that concludes the Director's findings.

Chair Anderson: Does the Commission have any questions for the Planner at this time?

Is the applicant here? If you can please approach.

Bruce Fehring: Madam Chairman, members of the Commission, thank you for hearing our application today. My name is Bruce Fehring. This is my wife, Cynthia Fehring.

Chair Anderson: Thank you. Do you have any additions or comments you'd like to make on the Director's Report?

Mr. Fehring: Not so much on the Director's Report per se, but I would like to make a comment about our application.

Chair Anderson: Please.

Mr. Fehring: Very recently I invited Kaua'i's Head of Economic Development, George Costa, to our property. Of course, Mr. Costa is also the Chairman of the Mayor's Ag Advisory Committee. I was concerned about the fact that in the past I had heard applications come before the Commission and the Ag Advisory Committee advised against the passage of those particular permits. I wanted Mr. Costa to come and see our operation; he did. I think he was quite impressed. We sat in one (1) spot and I showed him fifty (50) species of food-bearing plants within our eye sight. There are probably close to three hundred (300) on the property. We serve, and I think Mr. Costa would agree, as an example of how a small family farm can be sustainable and diverse, and how we can set an example for Kaua'i's youth that farmers cannot just survive, but thrive; small farmers like ourselves. Mr. Costa was very concerned that there are no Future Farmers of America operations at any of the schools anymore. He managed to get a grant recently for \$10,000 to install one in Kaua'i High. Three (3) girls took that particular grant and were given internships as it were on various farms around the island. I invited them to do the same with our farm because it's very,

very important that the young people of Kaua'i see that it can really happen; see that you can really do it with hard work.

Ours is not a hobby farm. I rise in the morning at 5:00 a.m. I work 'til 1:00 p.m. everyday. I have lunch and then I nap, until about 3:00 p.m. or 4:00 p.m., and then I go back to work until dark. I do that at least six (6) days of the week and I work on Sundays as well. I am the old-fashioned, small-time, yet modern, small-time family farmer. I'm very proud of what I do, and I can only say this that welcoming guests to our property is a joy, not only for ourselves, but for our guests. It helps to cover some of the costs of maintaining our ag operation. More importantly, it will help us in the future to help expand our ag operation. What's up next for us? A new greenhouse, an aquaponics operation. I hope to expand my sugarloaf pineapple fields and expand my nursery. All that is possible because of the hard work we do, but also because we create some supplemental income from our homestay. Thank you for your consideration.

Chair Anderson: Thank you. Does the Commission have any questions for the Planner or the Applicant?

There are no questions. We'll go ahead and have the Planner please read the recommendations.

Mr. Cua: Moving on to the recommendation of the report. Based on the foregoing evaluation and conclusion, it is hereby recommended that the subject request to convert an existing residential guest house into a homestay under Special Permit SP-2015-12, Use Permit U-2015-34, and Class IV Zoning Permit Z-IV-2015-35 be approved with the following conditions: (1) the homestay shall be operated as represented. Any changes to the operation and/or the respective structures shall be reviewed by the Department to determine whether Planning Commission review and approval is required. (2) For transient accommodation purposes, subject homestay operation shall be limited to the existing guest house and a bedroom within the existing dwelling. (3) To ensure that the homestay operation remains ancillary to the subject property's farm, sales of farm products from the subject property's farm exceed those sales generated from the homestay operation. (4) The Applicant shall maintain a homeowner's exemption for the homestay site to ensure that the homestay operation is within the same primary residential structure as that in which the owner resides. (5) The Applicant shall be required to be on-site during the times that the use is occurring. In the event the Applicant is off-island, then the homestay use shall not occur. (6) To respect the neighboring residential properties and for the safety of the visitors: §a, all vehicular parking related to this use and property including maintenance vehicles shall be accommodated on the subject property at all times. On-street parking shall not be permitted at any time. (b) Guests shall be informed that elevated noise activities or amplified music shall not be permitted after 10:00 p.m. These limitations shall be incorporated into a compulsory "Safety for You and Your Neighbors" and "Welcome and Notice" posted within the dwelling, and within any and all contracts and advertisements for use of the structure from the date of this approval. Copies of these documents shall be provided to the Department. Condition 7, one (1) outdoor sign, no larger than 1 square foot, shall be posted in a visible place on a wall, fence, or post immediately inside or on the front boundary of the property where it is easy to see for the purpose of providing the current homestay zoning permit number and the 24-hour contact information. No other signs shall be allowed and there shall be no direct illumination of the required sign. The numbers on the sign shall be no smaller than two (2) inches in height. Condition 8, in accordance with Section 11A-2.2(a) of the

Kaua'i County Code, Applicant shall submit to the Planning Department Environmental Impact Assessment fees for the project. The E.I.A. fee for the subject proposal is assessed at \$100.00 per minimum number of parking stalls required by the Comprehensive Zoning Ordinance. The minimum number of off-street parking stalls serving the proposed homestay operation is two (2). Therefore, prior to operation, the Applicant shall submit to the Planning Department an E.I.A. fee of \$200.00. (9) The property owner shall re-certify with the Planning Department the subject zoning permits annually on the date of issuance in accordance with the following regulations: (a) each document to re-certify shall include proof that there is currently a valid State of Hawai'i General Excise Tax License and Transient Accommodations Tax License for the homestay operation. (b) Each document to re-certify shall include proof that the primary residential structure used for the homestay operation is the owner's primary residence, and the respective owner is benefiting under Section 5A-11 of this Code for a homeowner's exemption for the homestay site in the year preceding the date of renewal. The Applicant is advised that should the subject homestay site no longer qualify for a homeowner's exemption, the Director may determine these permits invalid. (c) Federal and/or State tax documents that demonstrate the sales of agricultural goods from the subject property's farm exceed those sales generated from the subject property's homestay operation. The Applicant is advised that should the sales of the homestay operation exceed the sales of agricultural goods from the subject property's farm, the Director may determine these permits to be invalid. Upon re-certification, the Planning Department may initiate re-inspection of the properties for compliance with other provisions of this chapter or other pertinent land use laws, and may withhold approval of a renewal application and issue cease and desist notices to the Applicant until all violations have been resolved. Condition 10, in order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, all external lighting shall be only of the following types: downward-facing shielded lights. Any spotlights aimed upward or spotlighting of structures, landscaping, or the ocean shall be prohibited. (11) The Applicant is advised that should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the Applicant shall contact the State Department of Land and Natural Resources - Historic Preservation Division and the Planning Department to determine mitigation measures. (12) To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kaua'i contractors as long as they are qualified and reasonably competitive with other contractors, and shall seek to employ residents of Kaua'i in temporary construction and permanent jobs. It is recognized that the Applicant may have to employ non-Kaua'i residents for particular skilled jobs where no qualified Kaua'i resident possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices. (13) The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project, such as Leadership in Energy and Environmental Design standards or another comparable state-approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, solar panels, low-energy fixtures, low energy lighting and other similar methods and techniques. All such proposals shall be reflected on the plans submitted for Building Permit review. (14) The Applicant is advised that prior to and/or use, additional government conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agencies. And (15), the Planning Commission reserves the right to

add or delete conditions of approval in order to address or mitigate unforeseen impacts that this project may create, or revoke the permits through proper procedures should conditions of approval be violated or adverse impacts be created that cannot be properly addressed.

That concludes the Department's recommendations.

Chair Anderson: Is the Applicant in agreeance with the conditions as set forth in the Director's Report?

Mr. Fehring: We are.

Chair Anderson: Thank you. Are there any other questions regarding the conditions from the Commission?

Ms. Mendonca: I have just one (1) question. Again, I'm curious, you're asking to rent out one (1) bedroom and the guest house. What's the total occupancy for the guest house?

Mr. Fehring: Two (2).

Ms. Mendonca: Two (2)? So you're looking at three (3) including the one (1) bedroom, or possibly four (4)?

Mr. Fehring: Could be as many as four (4).

Ms. Mendonca: Thank you.

Chair Anderson: Any further questions?

How would the Commission like to proceed?

You have a question for the Planner?

Ms. Mendonca: Dale, I might have missed it, but there weren't any complaints regarding neighbors putting any opposition.

Mr. Cua: For this application, the Department hasn't received any complaints.

Ms. Mendonca: Okay. They've been doing this for fourteen (14) years?

Mr. Cua: Yes. It's noted in the report.

Ms. Mendonca: So at the time of...when the notices went out, they did cease all operations?

Mr. Cua: That was represented to the Department, yes.

Ms. Mendonca: So you had no problems?

Mr. Cua: No.

Ms. Mendonca: Thank you.

Chair Anderson: Do we have any further questions?

Do we have a motion?

Mr. Mahoney: Madam Chair, move to approve Class IV Zoning Permit Z-IV-2015-35, Use Permit U-2015-34, and Special Permit SP-2015-12 to allow conversion of a portion of an existing residence and guest house into a homestay operation.

Mr. Keawe: Second.

Chair Anderson: Okay. I'm going to stop. We do have a request for a recess, so I'm going to oblige. We'll take a ten (10) minute recess and begin with the discussion on the motion that's on the floor.

The Commission recessed at 3:06 p.m.

The Commission reconvened at 3:16 p.m.

Chair Anderson: Before the break, there was a motion on the floor to approve with a second. We will open discussion at this time. Any discussion from the Commission on this matter?

Mr. Katayama: Thank you, Madam Chair. As we go through this process, the process of addressing homestays in ag zoned land, again as I probably didn't articulate as clearly my position, but we have sort of a hybrid situation here where being in an ag zone means you need to demonstrate you're an ag enterprise; yet, we are approving these permits as if they were a residential situation. Generally speaking, if you are an enterprise, you have a certain process that you go through, and if these applications were coming before us as farmworker housing or ag dwelling units, they would go through a much different process than what we're doing now under the residential process because there is no review on a relative balance of accessory units. If we look at their Schedule F's that were submitted, majority of the income is derived from agriculture, but if you look on its entirety, does that mean it's a stable enterprise?

Secondly, we are approving availability to third parties. If you are inviting third parties into your enterprise, you need to meet certain safety standards or combination standards. None of these permits have been subject to that kind of review. I think that is where I'm having a little bit of conflict in that if these applications were for again, ag worker housing, it would be a whole different checklist; even if they were existing dwellings. If we said we had an existing dwelling that we want to put in ag workers, you would go through a different set of standards that you're going for a homestay, and you will not be able to charge for ag workers. They need to be provided dwellings at no expense to the worker. Again, I want to give agricultural operations all the access to revenues and the ability to expand their enterprise, but not at the reduction or stresses of the ag operation and having ancillary operations becoming predominantly. I think the

checks and balances and the review process approving homestays on ag operations need to be reviewed. Thank you.

Chair Anderson: Thank you. Other discussion?

Ms. Mendonca: I have to agree with what Wayne is saying because in the course of listening to the qualifications, we were clear what the definition for homestay was, in terms of the basic qualifications. There was never a guideline that we're following as to what percentage of the ag income that would come in that would grant the supplemental income. So is it \$30,000? What if a person's making \$20,000 in ag and \$10,000 supplement. Does that person qualify? What I've been under the understanding is as long as the ag income is higher than the supplemental income, that person still meets the minimum qualifications besides it being home exempt. I can see where Mr. Katayama's coming through because it does create...and as we go further into this, we're trying to give people who on one hand have been in this type of business for many years and there were no guidelines. Now there are guidelines and we're trying not to hurt these people who been following everything that they should, but we're kind of walking in a quiet area where we're not really sure how we are going to determine. Is \$10,000, \$5,000? As long as it is larger than the supplemental income, is my opinion. It does concern me, too, as I listen to his argument. Because farming and agriculture go hand in hand. There is this question that I asked last year, what is the term for farming in terms of one (1) bunch of bananas going to the farmers market claiming their taxes, or a person like these people who are putting in a full scale business? So we do have to have concerns. It's just my opinion.

Chair Anderson: Additional discussion.

Mr. Mahoney: Madam Chair, I understand some of the concerns with the other Commissioners, but right now, I think, before us is someone that is a farmer, that's not a hobbyist. I think that criteria was a major reason that I made the motion. If I thought that they weren't sincere farmers, I would have never made the motion, but I think in this particular case, until some other set of criteria is set up, it's a judgement call on what's before us and I think that these people have proven that they are truly into agriculture. That is the basis for my motion.

Chair Anderson: Further discussion?

We'll go ahead and call the vote. We'll do a roll call.

Mr. Dahilig: Madam Chair, the motion on the floor is to approve Class IV Zoning Permit Z-IV-2015-35, Use Permit U-2015-34, and Special Permit SP-2015-12 with the conditions stated in the Director's Report with the consent of the Applicant.

Commissioner Katayama?

Mr. Katayama: No.

Mr. Dahilig: Commissioner Keawe?



Mr. Keawe: Aye.

Mr. Dahilig: Commissioner Abrams?

Mr. Abrams: Aye.

Mr. Dahilig: Commissioner Mendonca?

Ms. Mendonca: Aye.

Mr. Dahilig: Commissioner Mahoney?

Mr. Mahoney: Aye.

Mr. Dahilig: Chair Anderson?

Chair Anderson: Aye.

Mr. Dahilig: 5:1, Madam Chair.

Mr. Fehring: Thank you very much.

Chair Anderson: Motion's approved 5:1.

Class IV Zoning Permit Z-IV-2015-36, Use Permit U-2015-35 and Special Permit SP-2015-13 to allow conversion of an existing guest house into a homestay operation on a parcel located along Kahili Makai Road in Kīlauea, situated at the intersection with Kūhiō Highway, further identified as 4387 Kahili Makai Road, Tax Map Key (4) 5-2-021-010, CPR Unit 3, and affecting a 3.838 acre portion of a larger parcel approx. 19.19 acres in size = *Lee Roversi*.

Mr. Dahilig: Madam Chair, we have deferred Item F.2.g. per the Applicant's request.

Class IV Zoning Permit Z-IV-2015-38, Use Permit U-2015-37 to allow conversion of an existing residence into a homestay operation on a parcel located along the southern side of Aka Road in Lāwa'i, situated approx. 500 ft. east of the Hailima Road/Aka Road intersection, further identified as 3922 Aka Road, Tax Map Key (4) 2-6-13: 026, and containing a total area of 8,050 sq. ft. = *Patrick & Judy Mahon*.

Mr. Dahilig: Before we call Item F.2.h., Madam Chair, there have been questions concerning the veracity of the affidavit that has been submitted as part of the application requirements for this application. Before any presentation or action can even occur, we need to ensure that the requisite number of people have been notified of the application coming before the Commission. We have questions concerning what actually did get sent out, so we are going to request that the Commission reschedule the New Agency Hearing. It has been left open and was called, but...if we can maybe have this, Madam Chair, the Department would request a motion to reschedule

Item F.2.h. to the second meeting in September for reposting and re-noticing; that would be appropriate in order to meet the statutory needs of the application to go forward at this point.

Chair Anderson: Do I have a motion for the same?

Mr. Abrams: So moved.

Mr. Mahoney: Second.

Chair Anderson: Any discussion? (None) All those in favor? (Unanimous voice vote) Any opposed? (None) Motion passes 6:0.

A-2015-1: Request for State Land Use District Boundary Amendment from  
Agricultural District to Rural District

ZA-2015-6: Request for County Zoning Amendment from Agriculture District (A) to  
Residential District (R-1)

Location: Kalāheo, Kauaʻi. Located along the western side of Puʻu Road, approx. a quarter (1/4) mile west of the Puʻu Road/Papalina Road intersection and immediately adjacent to property identified as 2205 Puʻu Road, and containing a total area of 3.26 acres. Tax Map Key (4) 2-3-004: 006 = Gregory R. Kingsley, et al.

Mr. Dahilig: Thank you, Madam Chair. We are now on Item F.4. This was the item related to both the State Land Use District Boundary Amendment A-2015-1 and ZA-2015-6, which was the Zoning Amendment from Ag to Residential District. This is in Kalāheo and the applicant is Gregory Kingsley. Dale is also handling this matter and I'll call him up to the mic for his presentation, Madam Chair.

Mr. Cua: Good afternoon Madam Chair, members of the Commission. The application that is before you, the project site is located in Kalāheo. Again, Tax Map Key number is 2-3-004 parcel 6. Area of the property is approximately 3.26 acres. Current zoning is Agriculture, State Land Use designation is Agricultural. General Plan designation is Residential Community, and currently it's vacant.

Actions required. A State Land Use Boundary Amendment is necessary to amend 3.26 acres of the subject property from the Agricultural District to the Rural District. A Zoning Amendment is required to amend Zoning Map ZM-KL300 from Agriculture District to Residential District R-1 for the subject property.

Project description and use. As represented, the Petitioner proposes the subject amendments to allow for the site development planning within the petitioned area. With the proposed Zoning Amendment to Residential District R-1, it would allow the Petitioner to develop a total of three (3) dwelling units for immediate members of the family.

Moving on to the Applicant's reasons and justification. It's contained in their project description.

Additional findings, property information. The subject parcel contains a gentle slope ranging from zero (0) to eight (8) percent at its highest point along Pu'u Road and sloping downward in the westerly direction towards the Brydeswood Residential Subdivision at the rear of the property. Map Panel No. 56 of the Detail Land Classification Study identifies the soil rating of the subject property as B19i and D20, which represent a moderate to low productivity rating. The Department of Agriculture's Soil Survey for the Island of Kaua'i classifies the soils of the petitioned area as the Lihu'e Series. On this soil classification, runoff is slow and the erosion hazard is slight. This soil is primarily used for sugarcane, pineapple, pasture, truck crops, orchards, and home sites. Surroundings. The adjacent parcels are situated within the State Agricultural Land Use District and zoned Agriculture District. Properties situated further to the southwest are within the State Rural Land Use District and zoned Residential District R-2, which was amended through Ordinance No. PM-285-94 in 1994. The closest developed residential area is situated approximately ¼-mile northeast of the project site. General Plan information. The Kaua'i General Plan designated the subject area, as well as lands within the Kalāheo Town Core as Residential Community. As stated in Section 5.4.3 of the Kaua'i General Plan, entitled Residential Communities, (a) lands included within the Residential Community designation shall be used predominantly for low- to high-density housing in towns and other residential areas. Density shall be one (1) to twenty (20) units per acre. Residential Community areas may also be used for commercial and industrial businesses, government facilities, and institutions. (b) High-density residential use of ten (10) units per acres or more shall be confined to areas served by wastewater collection and treatment facilities and major roads. (c) The location of non-residential uses shall be established through zoning. The intent is to provide convenient shopping and services to improve the livability of the various residential communities. South Kaua'i Community Plan. It should be noted that the subject property is located outside of the Kalāheo Town Core and therefore not subject to any design review requirements specified by the plan. Also, the plan identifies this area as growth for residential development, which is consistent with the General Plan designation. Access. Access to this parcel is provided through Pu'u Road, which is a County roadway that has a current right-of-way width of approximately 30 feet. The current pavement width is roughly 20 feet, which is wide enough to accommodate two-way vehicular traffic.

The Agency Comments have been attached as Exhibit A of the report, and that concludes the Department's Director's Report for now.

Chair Anderson: Sorry about that. Thank you. Does the Commission have any questions for the Planner at this time?

If I can have the Applicant step forward.

Ms. Cole-Connor: Good afternoon.

Chair Anderson: Good afternoon.

Ms. Cole-Connor: My name is Jennifer Cole-Connor.

Greg Kingsley: Greg Kingsley.

Fran Acoba: Hi, I'm Fran Acoba.

Kaioli Acoba: Kaioli Acoba.

Chair Anderson: If you'd like to just highlight...here today there has been some opposition. If you can answer with respect to the necessity for this particular request boundary change and zoning change.

Ms. Cole-Connor: Yes, of course. And also, we also have a letter that was just given to us by one (1) of our neighbors in support that you folks have not yet seen. I do have four (4) copies that I can give you.

Chair Anderson: Okay. You can provide it to the Planner please.

Ms. Cole-Connor: We did receive a review of the letter sent in by one (1) of our concerned neighbors, and a lot of the information or falsification was presented to our neighbors that just simply wasn't accurate and it was misleading. I feel that's where this letter stemmed from, as well as the petition. A few things that were addressed in the letter...obviously he spoke earlier today, Mr. Soares is concerned about his taxes, which I don't feel is part of our property's adjustment will affect him through our adjustment. Also, he mentioned that he was concerned with his son, as well as his brother, and his brother is the one who is in support of and is the letter you are now reading is from the opposition's brother. I just wanted to point that out to make that connection.

He also stated that they were against the developers doing this zone change and that is what has been presented to our neighbors is that we are subdividing and developing, which is simply not the case. As we had stated in our application to you folks for review is that it is for our family; two (2) homes, primary residences. Of course the zoning change does give us the ability for a third home, which at this time of course we don't need and are not planning to develop, but this is for our family, our children, and our primary residence here. I think that presentation of information to our neighbors was wrong.

When I did review the petition, you know, as instructed by the application to notify our neighbors within 300 feet, we did that; we sent it out. I do have those neighbors highlighted and you may have seen the affidavit, as well as the certified mailings that went out to those ten (10) neighbors. Of those ten (10) neighbors, none of them are on this petition. When I reviewed this petition, it says "concerned citizens"; some of them are on Pu'u Road, some of them are on the opposite side of Kalāheo, on Kikala, so some of them are all from the same household and they share the same address. I just feel that this petition should have no merit in terms of our amendment because it is concerned citizens of Kaua'i, and I'm sure there's concern with development and what information was presented to them. But we can certainly get enough signatures in support as well, if we went around to our surrounding Pu'u Road, Kalāheo neighbors because we have a lot of history on that side of Kalāheo as well. I don't feel that this petition has merit in particular to our application. I do not see any of my ten (10) neighbors within 300 feet on this petition, so that's how we feel about the opposition.

I'm not sure if I have answered all of your questions or concerns.

Chair Anderson: Does the Commission have questions for the Applicant?

Mr. Keawe: I have one (1). Where do you think this came from? Or why did it start? It's a small community; everybody knows what everybody else is doing.

Ms. Cole-Connor: Exactly. Yes. From the "coconut wireless", by profession, Greg does work for a developer, but this is for our personal use. I, myself, have an active real estate license, but I don't think that our professions should affect what we're trying to do here personally for our families. I think that the comments as a developer coming in and subdividing and creating this big community is false; that's absolutely not what we're doing here. I know earlier on, this parcel that we purchased, they were going to do some affordable housing. I believe twelve (12) houses were initially planned for this area in which the community was against. I think that there was a lot of misinformation presented to our neighbors, but certainly we have a great rapport with our immediate neighbors. A lot of these neighbors here we do know personally and I don't think they were presented with the proper information of us, our family, that this was us.

Mr. Keawe: Are any of your neighbors on this list?

Ms. Cole-Connor: No. I do not see one (1) of my neighbors that are 300 feet.

Mr. Keawe: Okay. So do you have any letters of support from those neighbors within 300 feet?

Ms. Cole-Connor: I did present it to you. Mr. Soares did write a letter in support.

Mr. Keawe: That one from...

Ms. Cole-Connor: That one letter.

Mr. Keawe: He's the brother of...?

Ms. Cole-Connor: The opposition, correct.

Mr. Keawe: Okay.

Ms. Cole-Connor: We were quite surprised to learn that there was, in fact, a petition because we've had, what we thought to be, very great communication and I was saddened by the petition. However, relieved when I reviewed it to know that none of my neighbors that I have been communicating with...we personally went around to our neighbors to communicate with them and explain to them why we were doing this, so actually though saddened, after reviewing the list, I felt much better and seeing that we are still.

Ms. Acoba: We just got this petition today, so we're seeing it for the first time as well and reviewing it.

Mr. Keawe: Real quick question, Madam Chair, for Dale.

Chair Anderson: Yes, please.

Mr. Keawe: Dale, have there been other actions similar in that same general area?

Mr. Cua: If you refer to the second map that I've attached with the Director's Report, in that map it's a Zoning Amendment map which identifies the petitioned area. Just further down the road, there's an area that's in a triangle, that particular area was rezoned back in 1994. With a similar request, the State at the time back in 1994, the State Land Use designation for the triangle portion was Agriculture and it was re-designated to Rural, and then the zoning in that particular case was amended from Agriculture District to Residential District R-2; whereas in this petition, it's being requested to Residential R-1.

Mr. Kingsley: Can I also say something? Our current status allows us a 500 square foot guest house, a regular residence, and a 2,000 square foot ag building. By putting in the two (2) houses, we are actually downsizing. We have no intention of doing a 2,000 square foot ag building, so the structures on the property will actually be less.

Chair Anderson: Are there any other questions for the Planner or the Applicants from the Commission?

Ms. Mendonca: When did you purchase this property?

Ms. Cole-Connor: We purchased this property May of 2013, I believe, yes.

Ms. Mendonca: So you knew it was agriculture?

Ms. Cole-Connor: We did know it was agriculture, yes. Our goal and our hope was that we could work with the County and our Planners, and maybe an additional dwelling unit; I mean, there were options that we thought we could work with. For us, looking at purchasing a home, we currently rent in Hanapēpē. Obviously, I know the price that half a million dollars does not buy you a lot on Kaua'i, and economically what can we do if our two (2) families can come together and afford a parcel at 3.26 acres is a phenomenal blessing for us. We have hope that we can work and make it work for our family, but we did absolutely know that it was an agricultural parcel.

Ms. Mendonca: So when you bought the parcel, what were you going to do with it? Were you going to build a house on it, knowing it was agriculture?

Ms. Cole-Connor: Correct, yes. The one (1) residential house with the hopes of getting an opportunity to do another house, which is obviously why we've secured the two (2) water meters for this property. We have hope that we can build two (2) houses to make our families live here together.

Ms. Mendonca: So you can still put a...right now you have one (1) dwelling?

Ms. Cole-Connor: We have nothing.

Ms. Mendonca: Okay, but you can... isn't the agriculture permitting it to two (2) houses on one (1) acre? They could do something like that.

Mr. Cua: Currently, the property, under the current zoning, qualifies for one (1) home. Unless the previous owner secured an additional dwelling unit for the property.

Ms. Mendonca: So they can do one (1) house?

Mr. Cua: One (1) home. With the proposal, it would allow the Applicant to build a maximum of three (3) homes.

Ms. Mendonca: And you said, excuse me, you were in real estate you said, so you must've been familiar before purchasing that these were some of the conditions that came with the land.

Ms. Cole-Connor: Right. My understanding was that we could do the one (1) home, as well as an agricultural structure and a guest home was my understanding.

Chair Anderson: Can you describe the current agricultural activity that's going on on the property?

Ms. Cole-Connor: Currently right now, we've actually spent the last year and a half clearing. It was definitely overgrown and there were structures; goats, chicken sheds, and a lot of old fencing, so we actually spent the time clearing and chipping. We currently have been able to put up a fence and a horse; we have a horse there now. But we're still in the process of, I guess, preparing the land. It was left abandoned, basically for several years, so that's where most of our attention has been, as well as working with the Department of Water.

Chair Anderson: Do you have a farm plan on file with the Department?

Ms. Cole-Connor: We currently do not have a farm plan, no.

Chair Anderson: Other questions?

Mr. Abrams: Yes. Dale, I'm a little confused here with the Staff report where it is proposing to move this from the Ag to the Rural District?

Mr. Cua: At the State level.

Mr. Abrams: At the State level?

Mr. Cua: Right.

Mr. Abrams: And that would be, basically, allowed to have a Zoning Designation of R-2?

Mr. Cua: Correct. Or R-1.

Mr. Abrams: Or R-1?

Mr. Cua: Right. Under the State Land Use Rural District, you can have a County Zoning Designation of R-1 or R-2, Residential District.

Mr. Abrams: Yeah, so is there a difference between that and changing it to Urban with R-1 Zoning? I mean, other than I can see some density issues.

Mr. Cua: With the State Land Use Urban District, you can actually...if you are looking to subdivide the property, you can actually have smaller lots. Whereas, if you have the Rural Designation, the minimum lot size would be half an acre. With the Urban District, you can have a lot as small as 6,000 square feet, which is required by our Zoning Ordinance.

Mr. Abrams: An R-1 would allow 6,000 square feet?

Mr. Cua: Well, as far as density calculation is concerned, it would allow for one (1) home per acre, but when it comes to subdivision, our Zoning Ordinance would accommodate a lot as small as 6,000 square feet.

Mr. Abrams: Okay. So for that, let's say one (1) acre R-1, you could have Urban Zone, you could have one (1) dwelling for that acre and also an ADU because it's (inaudible).

Mr. Cua: Correct, correct, yes. If the lot is subdivided.

Mr. Abrams: If the lot is subdivided, or even two (2) dwellings are built on it because one (1) would be an additional dwelling.

Mr. Cua: If the property remains as is with the amendment, the maximum you can have is three (3) if it remains as one (1) large lot.

Mr. Abrams: Yes. If it was Urban, it would be three (3), right?

Mr. Cua: Yes.

Mr. Abrams: If it is zoned Rural, would you be allowed up to six (6) dwellings on that property then? For three (3) acres.

Mr. Cua: If you keep it the way it is, as one (1) large parcel, no.

Mr. Abrams: No? You would only be allowed three (3)?

Mr. Cua: Three (3).

Mr. Abrams: But because you had it Rural, you could come back in and get smaller lots?



Mr. Cua: If you was to change the zoning, right.

Mr. Abrams: Okay. So the point for you would be, why was it that it was R-1 that you were choosing?

Ms. Cole-Connor: Well, we simply are requesting...we want to be able to build two (2) homes for Fran and Greg, and one (1) for me and Kai. These are the grandparents of our children. We are one (1) family trying to have two (2) homes on one (1) lot. We're not looking at subdividing, cutting up this land, separating it, selling it, that's not what we're looking at doing here. So with Agriculture, we were restricted to agricultural use. Again, that's why we're requesting an R-1. My understanding was that with the R-1 request came along, the State adjustment which is Rural because we don't have any intention of subdividing, nor the means or efforts or monetary amount to do that. It's not part of our plan.

Mr. Abrams: Yeah, I'm thinking where our Rural Districts on this side of the island is Ōma'o Road, which are more residential, sort of starting to come out of, shall we say, agricultural, and those generally are allowed two (2) dwellings per acre, but I believe they all subdivided to that extent.

Mr. Cua: Right.

Mr. Abrams: And on that particular half acre subdivided in half, there is an ADU, so most of them is in effect on R-4 Zoning for the Rural Designation for that area. Although the County, I believe they went ahead and put it as R-2 Zoning? So you have Rural Zoning and R-2 which gave the four (4) dwellings per acre, right?

Mr. Cua: With the provision of that additional dwelling unit, yes.

Mr. Abrams: We are restricted to not having ADUs on ag land or open land, right?

Mr. Cua: Correct. County zoning, yes.

Mr. Abrams: Ag Open, right? Urban Open you could have an ADU?

Mr. Cua: No. Just County zoning Ag and Open, correct.

Mr. Abrams: Okay. Let's see. So I understand your immediate intention, and like what we have seen, sometimes things change. Is there some sort of plan that you could maintain, relative to that property, if you ever decided to sell it?

Ms. Cole-Connor: I'm sorry, what's your question?

Mr. Abrams: Well for instance, it looks like based on some of these scenarios in terms of Ag or Urban or whatever, you would be allowed more than just the three (3) dwellings; depending on some other moves.

Mr. Kingsley: We have no intention of going more than three (3) and most likely we're just going to stick to two (2) houses. We don't have a third water meter, so the third house would never happen.

Mr. Abrams: A restrictive covenant. Would that be something that you would be willing to go ahead and restrict the number of density, if that's what we were looking on a zoning change that way?

I mean, that's the only way I understand that you can maintain your representation. Although I guess at that point, I don't know whether that covenant would be the County requiring it or them themselves, right?

Mr. Cua: Yeah. I mean, if you're looking to cap the development at two (2) with the Zoning Amendment, it would allow for them to go up to three (3). I don't think we can restrict anything more than what zoning would allow them.

Mr. Keawe: So the current action as they are proposing, the maximum they could build is three (3)?

Mr. Cua: Provided that they have the infrastructure to...

Mr. Keawe: I understand, but even in the future?

Mr. Cua: I mean, I think a lot of it is dictated on the infrastructure in the area.

Mr. Keawe: Okay, so they can't, under the current proposal that they're proposing, cut it up into six (6) different lots?

Mr. Cua: Without doing the necessary infrastructure upgrading.

Mr. Keawe: But they could?

Mr. Cua: Oh, yeah.

Mr. Keawe: My point is it would allow them to do that in the future at some point, right?

Mr. Cua: Yes.

Ms. Cole-Connor: We would...excuse me. My understanding is would another zoning change...the R-1 does not give us that, Dale? Is that correct? So we would come back to you folks and have to ask for additional...

Mr. Cua: Well, the only way it could conceivably happen is (1) the property is subdivided, where you have three (3) resultant lots then those lots would then each qualify for an additional dwelling unit. So each resultant subdivided lot would have two (2) homes, potentially two (2) homes.

Mr. Abrams: The area that this is in, is General Plan for Urban Residential to move out of Agriculture, right?

Mr. Cua: Correct, yes.

Mr. Abrams: And that everybody recognizes that there is somewhat of an infrastructure, the roadway is substandard. Do we get something like from Public Works that tells us what the roadway right-of-way is?

Mr. Cua: Yeah, they actually did it. Well, they provided some comments, but not any detailed requirements for infrastructure because at this time, it's unknown as far as what the development potential of the property would be. If they were looking to subdivide the property, at that time you'll see what the infrastructure requirements would be.

Mr. Abrams: But if they maintain the infrastructure then they can go ahead and subdivide? I mean, if the...I don't know whether or not Public Works would say you need to improve Pu'u Road all the way to Papalina, but certainly a portion of where their property fronts, right, would be the area that would need to be improved in terms of getting it up to standard. And at that point that it would be able to manifest six (6) dwelling units then if they subdivided into one (1).

Mr. Cua: Correct.

Mr. Abrams: Thank you.

Chair Anderson: Any further questions?

If there's no further questions...we have a question.

Mr. Katayama: Just a little clarification. Dale, in this process going from Ag to Rural, where do the infrastructure issues get addressed?

Mr. Cua: The infrastructure issues get addressed at the time the property is actually developed.

Mr. Katayama: So if we were to approve this change, what would be the next step?

Mr. Cua: The Planning Commission is the first approving authority. The petition is then moved on to the County Council. At that point, if the Applicant is successful in getting their amendment approved, then the zoning change...but as far as infrastructure is concerned, they're pretty much regulated to what's there now. So currently, as far as water is concerned, the infrastructure would only allow for two (2) homes on the property.

Mr. Dahilig: I also want to dovetail on the question that Dale is answering. This is an unusual situation and to be honest, this is probably the first State Land Use petition I've handled, so it's been a bit of a learning experience for myself. The Commission is sitting in a quasi-legislative form, so in as much as the issues of infrastructure and those types of things are relevant to the discussion, what the Commission is actually doing is looking at it through a policy lens. I think

that's a bit of a shift from the six (6) hours of quasi-judicial review that we've been doing on permits, so I'd just like to kind of couch and frame the discussion for the Commission that looking at it as if you were a policy maker, would this make sense from a policy standpoint? Because I think Dale's comments regarding the infrastructure are still going to get hit down the line as a consequence of permitting if the zoning does change. They'll be hit at building. If they're going to go grading, they're going to get hit at grading, and they're going to get hit at our department for aesthetic purposes, so that will be covered.

Mr. Keawe: That's part of the process?

Mr. Dahilig: That's part of the permitting process, but what is before you today is not permitting. It's policy discussion and policy recommendation to the Council. Now, this is where it gets a little odd because if the Commission does deny the petition, that decision is actually considered final. You approve it, it is advisory to the Council; you disapprove it, it becomes final and can be appealed to the Council. The Council then sits as a quasi-judicial body, which is kind of, again, unusual, but that's just the process that's laid out by the Code currently. Madam Chair, I just provide that framing of mind because again, this is not typically an exaction type of discussion; it's more of a policy discussion. Is the proposal aligned with the objectives of the policy documents and the policy regulations set forth by the Council?

Mr. Katayama: May I sort of just follow-up along that line? That's very helpful. We're going through a plan update as we speak, and one (1) of the responsibilities I think we have as a body is to ensure that there's proper infrastructure to support any kind of increases in density. If you look on historical plans, these are designed to be residential. Now, if you look at the infrastructure in place, I think it's probably on a relatively capacity point of view. Probably under sized, whether it be road or water or anything else, you know, any kind of support. So the question I guess for the Department is, how do you move forward in a situation like that?

Mr. Dahilig: Because this is a policy discussion, we've evaluated it from a frame of reference whether from a compatibility standpoint, the surrounding area is also of this particular requested use, does the regional and general plans align with the proposal? Imbedded in the regional and general plans are these infrastructure discussions. It's hard to dissect specifically the type of wastewater, sewer, road, type of specific analysis that are there that have been imbedded as part of the community discussion and the development of these plans, but that is part of the discussion. On top of that, we do route these petitions over to the affected agencies from a capacity and safety standpoint. So Engineering, Health, Office of State Planning, SHPD, Water Department, they are all folded into the loop on this to provide comment. As far as we understand, the Water Department, as well as the Department of Public Works - Engineering have not provided a negative recommendation for it. What they've said is we're going to handle this at the time that the request is going to come in. This is an applicant beware situation that even if they go through this, the Water Department may tell them hey look, you are going to request three (3) meters, we may not have three (3) meters. That's a risk element that they're bearing as well, but it obligates the Water Department to provide them water as a consequence of this action.

Mr. Katayama: So at this point, the Departments have no opinion?

Mr. Dahilig: Well, whether they do or they don't, they haven't articulated their areas under their jurisdiction to say that they would recommend to our Department not to recommend to this body that it pass muster. So our analysis was more, as you've read through the report, kind of lent to the okay what are the surrounding uses, what does the General Plan show, what does the Community Plan show? Those types of things and that's where we've come up with this recommendation at this point. That's why we concur with the...if this was an Urban Designation, I think we'd have an issue, but this is a request to Rural, not to Urban. So it does temper somewhat the concern that from a policy standpoint, we are going to be over intensifying an area that was not meant to carry the type of rural character of an area. I think that's why we've been a little more tempered, rather than something that would request urban change.

Mr. Katayama: That's not very comforting. Okay, thank you.

Chair Anderson: This question, and I'll leave it to the Planner if you want to go ahead and read your conclusions and recommendations. I did have a question and it has to do with one (1) of the conclusions regarding alignment with the South Shore Community Plan. It's my understanding that moving to that rural area, in this particular area, is something that is anticipated in that plan to accommodate a higher density, but would it make sense from a policy perspective to go forward on an amendment of just for one (1) lot or for amending the neighboring lots as well? In terms of, if the County is going to support that change in that area, it seems like one (1) approach would be rather than doing spot by spot, depending on whether or not the particular owners are pushing for that or if it indeed is part of an overall plan that that zoning be changed in the area itself, rather than lot-by-lot.

Mr. Keawe left the meeting at 4:03 p.m.

Mr. Cua: With respect to the Community Plan, again, we regarded it more as a policy document, so a lot of the maps or exhibits that you see in the plan, especially for areas of targeted growth, again, we would treat it very similar to the General Plan in the sense that we would use that policy and try to limit growth in those specific areas. When it comes to amending zoning maps, that's an entirely different process in the sense that it's an amendment to an official document. In this case, it would be the Zoning Map. The only way where, I guess, government would be able to amend the Zoning Map is through the landowner's consent. It would be handled collectively, if it was to be done, as opposed to have the individual landowners come in at separate times. Whether we can force them to do that, I think it's the landowners' decision to make as far as whether they want to up-zone or not. As far as the plan is concerned, I think it identifies that there is development potential of the property, but it would be the owner's prerogative whether they want to up-zone. For the Department, we'll just use the plan as a guide.

Chair Anderson: In terms of in the past, has there been a policy to actually have that collective up-zoning? In terms of my experience, I haven't seen any up-zoning, so is that how it's been done? Or has it been on a lot-by-lot basis?

Mr. Keawe returned to the meeting at 4:05 p.m.

Mr. Cua: As far as the collective process, I haven't seen it done myself. It's usually done as individuals coming in.

Chair Anderson: Are there any other questions for the Planner?

Ms. Mendonca: Dale, have there been any more objections around this particular area by neighboring people that may have called you personally?

Mr. Cua: No.

Ms. Mendonca: So if this sets a precedence, they get this approved, and the next neighbor doesn't want theirs changed, you're saying it's an individual thing?

Mr. Cua: It's an individual...I think the first application, as I discussed earlier in my presentation, was that first property back in 1994.

Ms. Mendonca: I can see some of the opposition. If they knew the property was Agriculture and that that particular area was all Agriculture, and they just bought it three (3) years ago, then to come in and to try to rezone it for their personal purpose, they should've done their homework, is my opinion, before purchasing the property.

Mr. Dahilig: I guess that's why I bring up the issue concerning policy because in as much as we have discussions concerning applications for Variance Permits and deviations from the Code, this is one step above that, which is an actual change of the Code. Just like we make changes for homestay permits or we make changes in the law, we make changes in the law for other things like say shoreline setbacks; this is the equivalent of that analysis, where we're actually saying okay is a change in the law warranted? Now, the only guiding documents we have at this point to give the Commission a clue from a policy standpoint are the County General Plan and the recently passed South Kaua'i Plan. Both of those are alignment for the proposed action you are actually seeing today; that is the alignment. So the question then becomes, as the Chair is mentioning, should these things be implemented through the County's police power on a broader-brush scale? Or what happens in a situation when you take something and piecemeal the policy change? Because you're dealing with spatial designations. That I think is a good question for us to maybe think about because at this point, I would convey to the Commission, our only requirement for this to have a hearing within sixty (60) days, so there is...now that we've had the hearing within sixty (60) days, the Commission is not under pressure to...as long as it's moving reasonably on the matter, can take its time to vet the questions for this. Action is not immediately necessary today, unlike let's say in a situation where agency hearing would be for a permit application. So if the Commission feels like it needs more questions answered or needs more information to help come to a policy decision on this, feel free to entertain that as an opportunity for moving this to another action date.

Mr. Keawe: Is there a likelihood that we will have more? Because this is the first one you've seen.

Mr. Dahilig: That question I can only speculate probably happening as far back as 1994 when that first...

Mr. Keawe: That was one (1), this is two (2), twenty (20) years later.

Mr. Dahilig: So could this create a snowball effect?

Mr. Keawe: Just because of the action.

Mr. Dahilig: It's possible. I think one thing to also kind of look at from a reverse standpoint, and we can probably look it up on Google Maps or our pictometry function, is are the adjacent lots already with home structures on it? I think what you're seeing is the policy being driven by a need, which is housing, and if the adjacent homes already have units on it, you may not see this type of snowball effect happening in contrast of something where you're dealing with a broad swath of land that's cut up that has no housing at all period. So that could be an additional analysis we could provide the Commission on this particular item.

Chair Anderson: Yes, you have a comment?

Ms. Cole-Connor: May I say something? Yes, so if you would look at some of the exhibits, I know not everybody is familiar with this exact area, but even Exhibit C on Page 20 of the report, it does have the State of Hawai'i Land Use District for property. I put a little star next to our property, you can see it there, and you can also see the triangle Rural that was changed in 1994. It looks as though maybe two (2), three (3) parcels down, surrounded by the urban area. Then again, we do have some of those Google Maps that the Director referenced of this specific area, so you can also see. I think Exhibit A-6 shows a really good picture of our property as outlined in red, and you can see the McBryde Neighborhood Bypass Road, the reservoir, Kalāheo stop light, Kalāheo School. Look at those aerial views of the property. Yes, we are zoned ag. We're surrounded by homes in a community area around us, and then that particular property that was changed is also referenced there in that exhibit that shows the different land use, so that may be helpful.

Chair Anderson: Thank you. Given the Director's advice with respect to the timeframe that we have on this, I personally would like to have more information regarding the surrounding areas. It's my understanding from looking at the proposed amendment area that it is surrounded by ag zoned lots, and if there is a policy that the Department wants to promote for that particular area, if that can be identified for the extended area rather than purely lot-by-lot piecemeal rezoning. That's something that I think when you're looking at the type of upgrades, in terms of infrastructure, that if you're going to plan so, it would make more sense to have an entire area changed, so that the development would come in at the same time and you could have the upgrades to the infrastructure at the same time as well. That's the type of information that I would like to see prior to making a recommendation that one (1) particular lot go forward to the Council to be up-zoned.

Mr. Katayama: I would support that and I, too, would feel very uncomfortable doing spot zoning on this scale without the proper infrastructure.

Ms. Mendonca: I feel the same way, too. I support that.

Mr. Mahoney: I would support that.

Mr. Abrams: I'm listening to your policy part. The policy right now is that our General Plan calls for Urban Residential onto that area. The State Land Use Commission is only two (2) lots away from this property and you're in Urban all the way to Papalina. And they also went Rural; I guess that may not have been the Land Use Commission, but the Council?

Mr. Dahilig: Yes.

Mr. Abrams: They have that designation to make those land use... So they went at that end, and lots by the way show me upwards of six (6) lots on that triangle. If you look at Exhibit B of the applicant's... on Page 14, you can see the lots. I don't know whether they're built on, which is the other issue there, but to me that ag was sort of encompassed around the reservoir and the stream that feeds it, that comes across Kaumuali'i Highway, I guess is where you see that, and of course right on the other side is Urban; that's what was running there. For our South Shore Plan, Kalāheo was physically challenged by most of the areas there. Actually, if you look at the other side of Pu'u Road, after that going almost all the way around to Kakela Makai, that is where the ag is still maintained and left alone at that point. So this small area is an area that would be, in my opinion, outside of getting some infrastructure in there, purely from a policy standpoint, a way that they would look to grow this community; even for what little bit it is. That's my dilemma; is trying to... it becomes too quick, too fast, and we don't know all of these other things, but if we are really just looking at straight policy, I just got a few more questions that I would want to have answered and certainly would support a deferral right now, but would seem to me that that's going to be a real hard decision that would go back to the Council, who are the ones who made it in the first place because they just put it in Rural at the very opposite end back in 1994.

Mr. Dahilig: I also want to add, just to keep in mind that the authority for the County to do this change in the State Land Use designation only goes up to fifteen (15) acres. So once that actually exceeds that threshold, then it really becomes the County that is asking the State Land Use Commission to do the change. From a contrary standpoint, as much as there is a hesitation to want to do spot zoning, at the same time, the State law has explicitly provided a threshold for the Counties to actually implement its own policy from a micro standpoint, which is that threshold of fifteen (15) acres. If it is something that the Commission is wanting us to balance that spot zoning issue in contrast with what is the overarching policy, do keep in mind that again, of that provision, you can read it the opposite way that it actually is to provide the Counties some latitude on smaller scale classification changes up to fifteen (15) acres. And it appears based on the legislation explicit need for that type of action in the first place.

Mr. Abrams: I'm assuming one way or the other whether we approve it, it'll go to the Council for their decision to make, and if we deny it or recommend denying it, it'll go to them if it gets appealed. So for me, it would be to build the body of the information for them to make a policy decision on this particular area, if, in fact, we at that point are not sure. Right now we're sort of up in the air.



Mr. Keawe: So if we included an area that's greater than fifteen (15) acres, then that's a County issue?

Mr. Dahilig: No, it goes to the State Land Use Commission.

Mr. Keawe: So it's under fifteen (15) acres, it's the County.

Mr. Dahilig: Here's a tricky thing that we've actually gone into discussions with the State Land Use Commission on regarding authority to actually request petition changes. This is a disconnect I will publicly disagree with the planners at the LUC on, but anything above fifteen (15) acres if the County wants to initiate the Land Use Petition from a police power standpoint, we can't exercise our own police power on a County level without seeking the approval of the landowners to file a petition with the Land Use Commission. So anything above fifteen (15) acres, it's their interpretation that you have to get all the landowners to consent to the police power exercise. That's something I will say, at this point, is not something that the Department has any desire to go door-to-door and lobby to get the authority to file a Land Use Petition at the State level. That's not something that I think we would want to get ourselves into.

Mr. Keawe: So what are the key points? Obviously, if we are going to delay this, what key information do we need in order to move it along?

Mr. Dahilig: I think for us, we provide two (2) key elements here, which are the land use documents; the General Plan and the South Kaua'i Plan. Those are our guiding documents, but beyond that in terms of the body of evidence, I think whatever the Commission needs to confirm that policy decision that was made just recently and a while back in 2000, or find something beyond what typically is found in our permitting decisions as reasons for denial of the policy change. I think those are the types of things, at least from a guide post standpoint we need from the Commission at this point because I understand the need to verify things like infrastructure or all these types of things, but again, those things are covered from the exaction process. We get into a chicken and the egg argument regarding well there's not this, there's not that, we have to condition this, we have to condition that. All those things actually happen in the permitting process; not the policy zoning process.

Mr. Katayama: But from a policy perspective, it should be more global than very microscopic, shouldn't it?

Mr. Dahilig: That's where you have the General Plan and the Land Use Plans for the South Kaua'i Plan. So that's exactly right in terms of the global nature of it is that the maps have to be legislatively changed, but the policy documents have had that type of discourse embedded in its proposals. Whether or not something from a standpoint needs a 20 foot road width versus a 16 foot road width, those are things that are appropriate for the exaction process.

Chair Anderson: In terms of my initial request for more information and bringing it back to the map of the surrounding area, we have the number of the fifteen (15) acres. I would just like to know what that surrounding area, in terms of the acreage, with overlays of what the South Shore Community Plan has envisioned for that area, if there are particular lots that may be suggested in

terms of perhaps up-zoning. It's just very difficult for me to wrap my head around a piecemeal recommendation. If it's part of a larger vision and being able to draw out more from what those policy documents have to say and if there's something that we can support actively. If there are landowners that see this as an opportunity, so that they may go at the same time so that we do actually have development that happens at the same time, so the infrastructure can be less costly and more efficient. It seems like that's, from my perspective, a way of helping to move things in that direction. If we can have that information. As well as just in terms of a policy, I really appreciate the Applicants bringing this because we haven't had them. There has been one (1) twenty (20) years ago and we're dealing with this issue of a residential use on ag, and really if there's going to be true ag zones, there should be agricultural activities occurring. If that's not what the property is in fact, then I believe there needs to be movement from the County to make those changes to recognize what is residential and what is ag, and protect the ag areas that need to be protected, and to allow for up-zoning in areas where there is an ag occurring and it makes sense from infrastructure purposes to increase density. I appreciate your application. I know it's not an easy thing and doing it for the first time. As you heard the Director, this is his first experience and it's all of our first experience with this. Given so, I believe we need some more time and more information.

Do we need a motion to defer this?

Mr. Dahilig: Yes, I would suggest a motion to defer. We probably would need at least four (4) weeks to handle this matter, so I would suggest maybe pushing it to the second meeting in August.

Chair Anderson: Okay, do I have a motion?

Mr. Keawe: I move to defer this action to the second meeting in August.

Mr. Mahoney: Second.

Chair Anderson: Any discussion? (None) All those in favor? (Unanimous voice vote) Any opposed? Seeing none, motion carries 6:0. This item will be deferred. Thank you so much.

## **ANNOUNCEMENTS**

### Topics for Future Meetings

The following scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter at the Lihu'e Civic Center, Mo'ikeha Building, Meeting Room 2A-2B, 444 Rice Street, Lihu'e, Kaua'i, Hawai'i 96766 on Tuesday, August 11, 2015.

Mr. Dahilig: Thank you, Madam Chair. We are on Announcements. We've circulated the batting order sheets for the applications for the future meetings, just for your information. If you have any questions, please feel free to follow-up with us. In terms of announcements, the next meeting will be held in this room at 9:00 a.m. on Tuesday, August, 11, 2015. And that's all the business we have this afternoon, Madam Chair.

Chair Anderson: Thank you.

Mr. Abrams: Question. So this last one, is the public hearing still open?


Mr. Dahilig: Yes.

Chair Anderson: With that, this hearing is adjourned.

### **ADJOURNMENT**

Chair Anderson adjourned the meeting at 4:25 p.m.

Respectfully submitted by:

  
\_\_\_\_\_  
Darcie Agaran,  
Commission Support Clerk

( ) Approved as circulated (add date of meeting approval)

( ) Approved as amended. See minutes of \_\_\_\_\_ meeting.

